

Date: March 9, 2022

At a regularly scheduled meeting of the City of Poughkeepsie Industrial Development Agency (the “Agency”) duly convened by the Chairperson of the Agency and held on Wednesday, March 9, 2022, at 6:30 p.m. at Common Council Chambers, Poughkeepsie City Hall, 62 Civic Center Plaza, 3rd Floor, Poughkeepsie, New York 12601, the following members of the Agency were:

Present: Rose Graziano-Moffett, Randy Johnson, Vincent Pedi, Matthew Diggins

Absent:

Recused:

Also Present:

After the meeting had been duly called to order, the Chair announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to consenting to JM Development Group, LLC entering into a Lease Agreement with Verizon Wireless of the East LP to allow the installation of communications facilities on a portion of the Project described in that Lease and Project Agreement, dated as of December 29, 2009, between the Agency and the Company and referred to as the “PURA 14 Property”.

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

Voting Aye

Voting Nay

Rose Graziano-Moffett
Randy Johnson
Vincent Pedi
Matthew Diggins

RESOLUTION OF THE CITY OF POUGHKEEPSIE INDUSTRIAL DEVELOPMENT AGENCY (THE “AGENCY”) CONSENTING TO JM DEVELOPMENT GROUP, LLC (THE “COMPANY”) ENTERING INTO A LEASE AGREEMENT WITH VERIZON WIRELESS OF THE EAST LP (“VERIZON WIRELESS”) TO ALLOW THE INSTALLATION OF COMMUNICATIONS FACILITIES ON A PORTION OF THE PROJECT DESCRIBED IN THAT LEASE AND PROJECT AGREEMENT, DATED AS OF DECEMBER 29, 2009, BETWEEN THE AGENCY AND THE COMPANY AND REFERRED TO AS THE “PURA 14 PROPERTY”

WHEREAS, by Title I of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 304 of the Laws of 1974 of the State of New York, as the same may be amended from time to time (collectively, the “Act”), the City of Poughkeepsie Industrial Development Agency (the “Agency”), was created with the authority and power among other things, to assist with the acquisition of certain projects as authorized by the Act; and

WHEREAS, the Agency entered into a Lease Agreement (PURA 14 Property) with JM Development Group, LLC (“the Company”), dated as of December 29, 2009 (the “Lease Agreement”) with respect to an Agency project known as the Water Club Apartments Project (the “Project”), located on what is sometimes referred to as the PURA 14 Property and which is more fully described in the Lease Agreement (the “Property”); and

WHEREAS, the Company proposes to enter into a certain lease agreement (the “Verizon Lease”) with Verizon Wireless of the East LP (“Verizon Wireless”) to allow the installation of communications facilities on a portion of the Project for the installation, operation and maintenance of communications equipment, together with additional space sufficient for the installation, operation and maintenance of antennas and related wires, cables, conduits and pipes related to the foregoing; and

WHEREAS, the proposed lease agreement is expected to be substantially similar in concept to those arrangements previously approved by the Agency on July 22, 2020 for the Agency project located at One Dutchess Avenue in Poughkeepsie (the “One Dutchess Avenue Verizon Lease”); and

NOW, THEREFORE, BE IT RESOLVED by the Agency (a majority of the members thereof affirmatively concurring) as follows:

- Section 1. Subject to the satisfaction by the Company and Verizon Wireless, as applicable, of the conditions set forth in this resolution, the Agency is authorized to consent to the Company entering into the Verizon Lease substantially in the substance approved by the Agency for the One Dutchess Avenue Verizon Lease.
- Section 2. The consent shall be effective only upon delivery by an authorized officer of the Agency to the Company of a written instrument (the “Consent”) concurrently with or immediately prior to execution of the Verizon Lease by the parties thereto, which shall be delivered upon the reasonable satisfaction of the Agency that the conditions set forth in Section 3 have been satisfied or waived by the Agency.

Delivery of the Consent shall constitute conclusive evidence that the conditions to the effectiveness of the consent have been satisfied or waived.

Section 3. An authorized officer of the Agency is hereby authorized to execute and deliver the Consent only upon the satisfaction or waiver of the following conditions:

- (i) the Company and Verizon Wireless, as applicable, shall have obtained any and all required permits, consents, authorizations, approvals, and certificates from any and all federal, state and local jurisdictions, agencies, boards, committees, commissions and tribunals (including, but not limited to, the City of Poughkeepsie, its building inspector, code enforcement officer, zoning board and planning board, as applicable) and providing to the Agency satisfactory evidence of the same;
- (ii) the form of the Consent shall be substantially the same (except with respect to property description, equipment specifications and rental rates) as that consent authorized and executed by the Agency with respect to the One Dutchess Avenue Verizon Lease;
- (iii) the substance of the Verizon Lease shall be substantially the same (except with respect to property description, equipment specifications and rental rates) as those forms that have been authorized and executed by the Agency with respect to the One Dutchess Avenue Verizon Lease; and
- (iv) the Company and Verizon Wireless, as applicable, shall have identified to the Agency (a) the function, use, and capacity of the equipment to be installed, (b) any anticipated, intended or known other parties or entities that will have ownership, control or access (as commercial partners, tenants, customers or users (other than through use of cellular service) of the equipment), (c) location, area (footprint), height and volume of space the equipment will occupy, (e) any agreed, anticipated or potential sources and amounts of rents, income, compensation, payments, revenue or profits due and payable to the Company (including, without limitation, any increases) from or by reason of the equipment, the site, occupancy, and each of the foregoing is reasonably acceptable to the Agency.

Section 4. Nothing herein shall be construed as an agreement by the Agency to grant the Company or Verizon Wireless any other or further consent.

Section 5. Following delivery of the Consent, the continued effectiveness of the Consent shall be conditioned upon and subject to the following:

- (i) the Company giving written notice to the Agency of any proposed amendment, alteration, modification, supplement, replacement or restatement, in whole or in part, of any kind whatsoever of or to the Verizon Lease, and the Agency not objecting to such proposed action within thirty days following receipt by the Agency of such notice;

- (ii) continuing compliance by the Company and Verizon Wireless, as applicable, with the requirement set forth in clause (i) of Section 3 (including there being no material violations of any of the foregoing); and
- (iii) the Company giving written notice to the Agency of any proposed changes in the matters set forth in clause (iv) of Section 3, and the Agency not objecting to such change within thirty days following receipt by the Agency of such notice.

Section 6. Failure by the Company to comply with, or to cause Verizon Wireless to comply with, the conditions set forth in Section 5 shall be sufficient grounds for the Agency to terminate the Consent, and upon notice of any such termination the Consent shall be terminated and void. Termination of the Consent by the Agency for cause as set forth in this Section 6 shall constitute a default by the Company under the Lease Agreement and any related agreement under which the Company has derived benefits from the Agency (each a “Related Agreement”), and the Agency shall have all rights and remedies set forth in the Lease Agreement and in any Related Agreement.

Section 7. Nothing in this resolution shall grant, or shall be construed as permitting, any of the financial assistance granted by the Agency pursuant to the Lease Agreement or any Related Agreement to apply to any property or equipment on that portion of the Project leased by the Company to Verizon Wireless pursuant to the Verizon Lease.

Section 8. The Chair Person and Vice-Chair Person (each an authorized officer) of the Agency each are authorized to execute and deliver documentation reasonable or necessary to complete the Verizon Lease, provided that the documents conform to the conditions set forth in this resolution.

Section 9. The effectiveness of this resolution is conditioned upon the Company agreeing to pay reasonable fees and expenses of the Agency, including counsel to the Agency, in connection with the Verizon Lease.

Section 10. Subject to the condition set forth in Section 9, this resolution shall take effect immediately.

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STATE OF NEW YORK)
 : ss.
COUNTY OF DUTCHESS)

I, the undersigned, Secretary of the City of Poughkeepsie Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the City of Poughkeepsie Industrial Development Agency (the "Agency"), including the resolutions contained therein, held on March 9, 2022, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with the New York Open Meetings Law, constituting Chapter 511 of the Laws of 1976 of the State of New York, that all members of said Agency had due notice of said meeting and that the meeting was in all respects duly held.

I FURTHER CERTIFY, that 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 resolutions are in full force and effect and have not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this 30 day of March, 2022.



By: _____
Secretary