

TOWN OF PLATTSBURGH
TOWN BOARD WORK SESSION
June 27, 2024

Resolution No. 024-158

Resolution Approving the Terms and Conditions of a Payment in Lieu of Tax Agreement to be Entered Into Between County of Clinton Industrial Development Agency (The “Agency”) and Schluter Systems L.P. in Connection With the Schluter Systems L.P.) Project Being Undertaken by The Agency

BE IT ENACTED, by the Town Board of the Town of Plattsburgh, New York (the “School District”), as follows:

WHEREAS, pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended (the “Enabling Act”) and Chapter 225 of the Laws of 1971 of the State of New York, as amended, codified as Section 895-f of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”), the County Legislature of Clinton County, New York (the “County Legislature”) has heretofore appointed the Chairperson and members of County of Clinton Industrial Development Agency (the “Agency”) and has duly caused to be filed in the office of the Secretary of State of the State of New York the certificates required by Section 856 of the Act; and

WHEREAS, the Agency is in the process of undertaking a project (the “Project”) for the benefit of Schluter Systems L.P. (the “Company”), a limited partnership organized and existing under the laws of the State of New York, which Project consists of the following: (A)(1) the acquisition of a leasehold interest in an approximately 43.3 acre parcel of land located at 26 Irish Settlement Road (tax map no.: 232.-3-18) in the Town of Plattsburgh, Clinton County, New York (the “Land”), (2) the construction on the Land of an approximately 433,800 square foot manufacturing and warehousing facility (the “Facility”) and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the “Equipment”) all of the foregoing to be owned and operated by the Company as a manufacturing and warehousing facility and other directly and indirectly related activities; (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 certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording 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, pursuant to which (1) the Company will agree (a) to cause the Project to be undertaken and completed, (b), as agent of the Agency, to undertake and complete the Project, and (c) to pay, as rent thereunder, the Agency’s administrative fee with respect to the Project, together with the Agency’s expenses relating thereto, and (2) the Agency will (a) agree to undertake the Project, (b) appoint the Company as agent of the Agency to undertake and complete the Project, (c) agree to lease the Project Facility to the Company, and (d) grant to the Company certain options to acquire the Project Facility from the Agency; and

WHEREAS, the Town, the Peru Central School District (the “School District”) and Clinton County (the “County”) (the Town, the School District and the County being sometimes collectively referred to as the “Affected Tax Jurisdictions”) constitute all of the “affected tax jurisdictions” (within the meaning ascribed to such term in Section 854(16) of the Act) with respect to the Project Facility; and

WHEREAS, to effectuate a real property tax exemption with respect to the Project Facility by reason of the involvement of the Agency with the Project, (A) the Company and the Agency will execute and deliver a payment in lieu of tax agreement (the “Payment in Lieu of Tax Agreement”) by and between the Company and the Agency pursuant to which the Company will agree to pay certain payments in lieu of taxes (each a “PILOT Payment”) with respect to the Project Facility to the County Treasurer of Clinton County (the “County Treasurer”) for distribution to the Affected Tax Jurisdictions, and (B) the Agency will file with the appropriate assessor or assessors having jurisdiction over the Project Facility (each, an “Assessor”) and mail to the chief executive officer of each of the Affect Tax Jurisdictions a copy of a New York State Board of Real Property Services Form RP-412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under section 412-a of the Real Property Tax Law) (a “real Property Tax Exemption Form”) relating to the Project Facility and the Payment in Lieu of Tax Agreement; and

WHEREAS, the School District has indicated to the Agency that it does not wish to receive any of the PILOT Payments allocable to the School District under the Payment in Lieu of Tax Agreement (the “District Request”); and

WHEREAS, as a result of discussions had by the School District with the Company, the School District desires to enter into a host community agreement (the “HCA”) with the Company, pursuant to which the Company will agree to pay certain host community payments to the School District in lieu of making payments to the School District under to the Payment in Lieu of Tax Agreement; and

WHEREAS, Section 858(15) of the Act provides that, unless otherwise agreed in writing by the “affected tax jurisdictions” (within the meaning ascribed to such term in Section 854(16) of the Act), all payments in lieu of taxes payable under the Payment in Lieu of Tax Agreement must be allocated among the “affected tax jurisdictions” in the same proportions to the amount of real property tax and other taxes which would have been received by each “affected tax jurisdiction” had the Project Facility not been tax exempt due to the status of the Agency; and

WHEREAS, as a result of the District Request and for purposes of compliance with Section 858(15) of the Act, the Agency and the Affected Tax Jurisdictions desire that the Town approve the allocation of the PILOT Payments payable under the Payment in Lieu of Tax Agreement;

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Plattsburgh, as follows:

Section 1. For the purpose of satisfying the requirements contained in Section 858(15) of the New York State General Municipal Law and the requirements, if any, contained in the Agency's Uniform Tax Exemption Policy, the Town hereby approves the terms and conditions of the Payment in Lieu of Tax Agreement, including but not limited to, the terms of the distribution and allocation of payments under the Payment in Lieu of Tax Agreement thereunder, including no payments being made to the School District by the Company thereunder.

Section 2. This resolution shall take effect immediately.

Motion:

Seconded by:

Discussion:

Yes No Absent Carried Tabled

**Thomas E. Wood
Barbara E. Hebert
Charles A. Kostyk
Dana M. Isabella
Michael S. Cashman**