

TOWN OF NORTH HEMPSTEAD COMMUNITY DEVELOPMENT AGENCY

**Minutes of
August 5, 2014
7:30 PM**

Call to Order

Mr. Bailey, Chairman of the Town of North Hempstead Community Development Agency (the “Agency”), called the meeting to order at 7:39 p.m.

Attendance

Members of the Agency (the “Members”) in attendance were:

Lamont R. Bailey
Howard Weitzman
Sid Nathan (arrives at 7:47 p.m.)
Jeffrey M. Greilsheimer
Rodney Caines (arrives at 7:52 p.m.)

Agency staff present consisted of:

Dermot F. Kelly, Executive Director
Joseph Santamaria, Assistant Executive Director/Project Manager
Patrice P. Allen, Administrative Assistant
Peter Dzwilewski, In-house Counsel

Minutes of Meeting Held on May 14, 2014

Upon the motion of Mr. Weitzman, seconded by Mr. Greilsheimer, the minutes of the meeting held on May 14, 2014 were accepted.

Executive Director’s Report

The Executive Director’s Report consisted of the following:

Community Development Block Grant (“CDBG”) Program:

Operations:

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According to OCD, the Agency's current chart of account balance as of 7/1/14 is \$1,140,408.59.

Cash Balances as of 8/4/14 are:

- Citibank –Lump Sum Account - \$564,331
- Citibank – Escrow Account - \$11,169
- Valley National Bank - Program Income Account - \$825,679

New Cassel Urban Renewal Plan

Active Projects:

Site C:

Residential units have been fully occupied since April 2011.

BONYM is seeking a purchaser for the remaining 3,700 sq. ft. of commercial space. The asking price is \$300,000 to \$350,000. The property is still being marketed by the BONYM. CDA has received correspondence from a local church that is interested in purchasing the property.

Site D: No Change

BNY Mellon and 139, LLC a holding company for James J. Vilardi (“Developer”) have signed an agreement to complete the development, construction and sale of the Project. Mr. Vilardi will sign the Amended LDA Agreement (approved by the Agency in September 2011) and Title will be transferred to them though an agreement with BONYM. The agreement was approved by the Nassau County IDA at their December 18, 2013 meeting. The BONYM stated on February 4th that they are waiting on a contract from Nassau County for additional HOME funds. The County's Office of Community Development has requested additional information, including a copy of the proposed Note and Mortgage Agreement with BONYM financing documents, from Mr. Vilardi which he has promised to deliver in the next few weeks. The County will not issue the commitment letter for \$250,000 of HOME FUNDS until they receive all of the additional documentation they requested. BONYM and Vilardi will not close until they get the Commitment from the County.

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Site I: No Change

Cornerstone Developers have been selected by the CDA Board and the Town Board to develop 11 - three bedroom Townhouses and a public roadway on this site. A zoning analysis has been completed and a Zoning Compliance letter has been issued by the Town's Planning Department and Cornerstone has submitted an application to the County for a major sub-division including for 11 individual lots and public roadway, this process may take four or more additional months Sequential to subdivision approval, Cornerstone will proceed with preparing deeds and permit document(s), then file them with the County Clerk and Town Department(s) for approvals. A lottery for the houses will be conducted by the Long Island Housing Partnership ("LIHP") after the approval of the subdivision is received from the County. Once buyers have been selected and approved and all necessary permits are issued construction will commence. The project experienced some delays in connection with NYS Housing Affordable Housing Assistance application-round normally offered in April or May, was delayed until January. CDA Staff was successful working with the County to replace the NYS funds with additional HOME funds. The contract for the HOME funds has been routed through the County and has been executed. Developer public financing is now in place. In addition, a request for down payment subsidy funds of \$40,000 per housing unit to assist buyers was submitted to NYS on January 8, 2014 through LIHP. CDA Staff worked with the County and was able to obtain additional HOME funds of approximately \$950,000 for the project. CDA will meet with the Developer and the County every two weeks to ensure the project stays on track.

Site M: CDA finalized the purchase of 985 Prospect Avenue in June - Option 3(listed below) and possibly other choices will be deliberated with the Town in greater detail. Options 1 and 2 will be removed.

CDA owns located at 215 & 216 Brooklyn Avenue and 989 Prospect Avenue. CDA is in the process of developing plans for a mixed used and/or senior housing for the property.

Possible Development Options:

Option 1:

Issue an RFP for the redevelopment of 989 Prospect to construct a 2,600 Sq. Ft. commercial building to house a bank or credit union with a drive up window.

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215 Brooklyn and 216 Brooklyn will then, with the assistance of LIHP, be developed into single family 3 bedroom homes. A Resolution was approved at the November meeting regarding obtaining grant money and other assistance for this project from LIHP.

Option 2:

Issue an RFP for the redevelopment of the property at 989 Prospect into a three story mixed use building. The first floor will be designed to accommodate a bank or credit union with a drive up window. The second and third floors will house approximately 6 one bedroom and studios rental apartments. Preference for the rentals will be given to residents of the Town and limited to individuals over age 55. The property at 215 Brooklyn Avenue will be used for parking for the building at 989 Prospect.

Option 3:

Purchase 985 Prospect Avenue and issue an RFP for a larger mixed use site as described in Option 2 and develop a 3 bedroom single family home at 216 Brooklyn Avenue.

All of the aforementioned options conform to the New Cassel Urban Renewal Plan but still have to be discussed with the Town Supervisor's Office and details worked out with the Town's Planning and Building Departments.

Brush Hollow Road: No change

CDA received the conditional approval of the sub-division from the County and is in the process of creating deeds.

The existing house will be renovated into a 3 bedroom home. CDA submitted plans created by our Architect Sidney Bowne and Son, LLP plans were to the Town's Building Department on January 13th along with applications for permits. The Building Department issued an Omissions Letter on March 18th and Bowne distributed documentation in response to the Omissions Letter on May 12th. CDA received a "permit pending notice" on July 30th. A building permit will be issued when a contractor is selected and correct insurance documentation has been filed. CDA is in the process of relocating the tenants pursuant to HUD Regulations.

Third Street (created by the sub-division of 876 Brush Hollow Road):

CDA received conditional approval for the subdivision from the County Planning Department and is in the process of filling new tax lots and deeds with the Nassau County Clerk's Office.

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Construction of a new three bedroom home – Bowne supplied permit documents and the Home Energy Rating System (HERS) documentation to CDA last week. The documents are being filed with the Building Department on August 5th. The CDA anticipate receiving the new deed and lots numbers from the County Clerk and will be the process of locating a new street address.

No change in Status:

265 Covert Street:

CDA closed on the purchase of a 7500 sq. ft. vacant lot located at 265 Covert Street in New Cassel. CDA plans building a three bedroom house on this lot utilizing the three bedroom house plans being designed for the Third Street property. LIHP will assist CDA in obtaining grants and marketing this property.

LIHP Assistance:

A Resolution was approved at the November CDA meeting regarding obtaining grants and marketing assistance for the **Brush Hollow Road, Third Street, Covert Street and Brooklyn Avenue** projects from LIHP. A lottery for the houses will be conducted by the LIHP after all necessary approvals are received. Once buyers have been selected and approved and all necessary permits issued the construction will commence.

Site A:

The Developer continues to market the remaining 10,540 sq. ft. of commercial space.

Site B:

The Supermarket – “Ideal Food Basket” had its grand opening October 2nd. CDA was represented well By Chairman Bailey and Board Member Weitzman.

The BONYM though its real estate holding company NY CRE Asset Holdings, LLC has sold the remaining 3,180 sq. ft. of retail condominium space to Prospect New Castle Realty, Inc. (Prospect”) the holding company for Worthy NYC, Inc. (“Worthy”) for \$425,0000. Worthy a sneaker and apparel store has received all necessary building permits and now estimates that the build out will be completed in June.

Upon the motion of Mr. Weitzman duly seconded by Mr. Greilsheimer, the Executive Director’s Report, to the extent of the Members’ knowledge of the events referred to, was accepted and approved unanimously.

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For Consideration

RESOLUTION NO. 19 (2014)

A RESOLUTION AUTHORIZING THE MODIFICATION OF A LOAN.

WHEREAS, the Town of North Hempstead Community Development Agency (the “Agency”) has committed to the opening of a supermarket that serves the New Cassel Urban Renewal Area; and

WHEREAS, in accordance with that goal, Tony & Eddy LLC (“Borrower”) acquired and operates a 7,500 supermarket condominium unit (the “Real Estate”) at 735 Prospect Avenue, Westbury, New York (the “Project”); and

WHEREAS, on May 4, 2011, the Agency staff recommended that the members of the Agency (the “Members”) authorize the making of a \$350,000 loan (“Loan”), at an annual interest rate of 3.25% and for a 7 year term that has a current outstanding principal balance of \$244,520 secured by a mortgage on the Real Estate subject and subordinate to a mortgage in the amount of up to \$500,000 held by Eastern Funding which has a current outstanding principal balance of \$407,619 and a lien held by the condominium board of managers for common area charges, with personal guarantees from Amable Paulino and Roman Batista, and a corporate guarantee from Westbury Food and Grocery Corp., and

WHEREAS, due to certain difficulties, including an approximate 30% increase in real estate taxes and extensive delays in in opening due to difficulties in obtaining a Certificate of Occupancy, in the operation and cash flow of Borrower’s business it is requesting (please attached June 17, 2014 letter from the Borrower’s Attorney Martin Burger) that the Agency make certain modifications to the Loan, to wit, a ten-year extension to the Loan at the same rate of interest provided and the waiver of approximately \$600 in late fees, thereby reducing the monthly loan payment from \$4,461.00 to \$2,389.43, the Borrower shall not incur any further debt in the way of a first mortgage with Eastern Funding or any other funding source secured by the Real Estate and on such other terms and conditions as are identified materials present with this resolution (“Staff Recommendation”);

WHEREAS, the Members wish to authorize and adopt the Staff Recommendation.

NOW THEREFORE, BE IT

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RESOLVED, that the Members hereby authorize and adopt the Staff Recommendation; and be it further

RESOLVED, that the Executive Director of the Agency or any officer thereof is hereby authorized to execute such agreements and instruments and to take such their action as may be reasonably necessary to effectuate the foregoing.

Upon the motion of Mr. Bailey and seconded by Mr. Greilsheimer, the resolution was unanimously adopted.

RESOLUTION NO. 20 (2014)

A RESOLUTION AWARDING A PROFESSIONAL SERVICES AGREEMENT FOR AUDITING AND FINANCIAL COMPLIANCE SERVICES.

WHEREAS, on June 18, 2014, the Town of North Hempstead Community Development Agency (the “Agency”) issued a request for proposals (“RFP”) seeking the identification and engagement of a qualified certified public accounting firm, located and authorized to do business in the State of New York, to provide auditing and financial compliance services (the “Services”); and

WHEREAS, the Agency issued and published notice of the RFP in Newsday, the New York State Contract Reporter, and on the Town of North Hempstead’s webpage; and

WHEREAS, Agency staff has received and reviewed two (2) proposals (please see attached proposals and Summary of Proposals) from certified public accounting firms for the Services (the “Proposals”); and

WHEREAS, the Proposal (the “SaxBST Proposal”) received from SaxBST LLP, CPAs (“SaxBST”) reveals that (i) the SAxBST Proposal is concise, complete, and clear, (ii) BST has 295 employees, including 45 Partners in three statewide offices (including an office in Mineola and NYC). Practice includes a Government Services Group. Clients include a variety of public benefit corporations and municipalities receiving CDBG or HOME funds and over 100 New York State counties, cities, towns, villages and other governmental agencies. SaxBST is a member of the McGladrey Alliance an affiliation of independent accounting and consulting firms in the United States with nearly 100 members in 42 states and Puerto Rico (iii) SaxBST audited CDA’s financial statements in 2011, 2012 and 2013

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in a concise and timely manner, (iv) the BST Proposal offers the Services at annual maximum rates of \$13,500 for the audit for the year ending December 31, 2014, December 3, 2015 and December 31, 2016.

WHEREAS, the Audit Committee at a Meeting on July 24, 2014 has determined that the SaxBST Proposal best satisfies the factors set forth under the RFP for awarding to a qualified public accounting firm the contract for the Services, which factors are: (i) proposal conciseness, completeness and clarity of presentation, (ii) prior experience in performing services and in the subject matter areas of the type contemplated by the RFP, (iii) overall expertise, (iv) cost, (v) reputation, and (vi) any other information that would assist the in the selection process; and

WHEREAS, based upon its review of the Proposals and the foregoing, Agency staff recommends that the Members select and enter into a contract with SaxBST to provide the Services pursuant to the RFP and the BST Proposal (the "Audit Committee Recommendation"); and

WHEREAS, Members wish to authorize and adopt the Audit Committee Recommendation.

NOW THEREFORE, BE IT

RESOLVED, that the Members hereby authorize and adopt the Audit Committee Recommendation; and be it further

RESOLVED, that the Executive Director of the Agency and any other officer thereof is hereby authorized to execute such instruments and documents and to take such other action as may be necessary to carry out the foregoing.

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Upon the motion of Mr. Weitzman and seconded by Mr. Bailey, the resolution was unanimously adopted.

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RESOLUTION NO. 21 (2014)

**A RESOLUTION SELECTING A CONTRACTOR AND
AUTHORIZING THE EXECUTION OF AGREEMENT(S) TO
CONSTRUCT AFFORDABLE SINGLE FAMILY HOMES ON
AGENCY-OWNED PROPERTIES.**

WHEREAS, the Town of North Hempstead Community Development Agency (the “Agency”), in conjunction with the Long Island Housing Partnership, Inc. issued a request for proposals (the “RFP”) on June 18, 2014 for the construction of three (3) single family affordable homes and a substantial renovation and conversion of a two family home into a single family affordable home on scattered sites in New Cassel, New York that are owned by the Agency (the “Project”) and are identified on the Nassau County Land and Tax Map as:

876 Brush Hollow Road, Westbury, New York
Section 11, Block 167, Lot 31
(Formerly Section 11, Block 167, Part of Lots 8, 9 and 10)

Third Street, Westbury, New York
Section 11, Block 167, Lot 32
(Formerly Section 11, Block 167, Lot 11 and P/O Lots 8, 9 and 10)

265 Covert Street, Westbury, New York
Section 11, Block 97, Lots 40, 41 and 42

216 Brooklyn Avenue, Westbury, New York
Section 11, Block 122, Lot 18

; and

WHEREAS, upon completion of the Project, the single family homes will be sold to private individuals for affordable residential housing; and

WHEREAS, the Agency received three proposals from contractors which were opened on July 22, 2014 in the presence of Agency Staff, Counsel and the Agency’s Accountant seeking to be designated by the Agency as a qualified and eligible contractor to enable it to enter into an agreement for completion of the Project; and

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WHEREAS, the pricing provided in the proposals are detailed in the following table:

Contractor	Brooklyn	Brush Hollow	Covert	Third	Total
Lipsky	501,133.75	446,358.75	501,133.75	471,586.25	1,920,212.50
Bens	427,904.99	304,202.51	484,930.94	427,904.99	1,644,943.43
LI Gallery	361,962.00	325,903.00	361,962.00	355,462.00	1,405,289.00

; and

WHEREAS, after reviewing the initial proposals, the Agency staff interviewed the two contactors who submitted the lowest pricing and after negotiating some points with them, asked them to submit modified proposals and documentation that was not provided in the original proposal from Long Island Gallery Homes Ltd., 368 Main Street, East Setauket, New York (“LI Gallery”); and

WHEREAS, Ben’s General Contracting Corporation, 19 Suffolk Street, Freeport New York (“Ben’s”) and LI Gallery submitted modified pricing as indicated in boldface below:

Contractor	Brooklyn	Brush Hollow	Covert	Third	Total
Bens <i>Modified</i>	362,505.96	309,446.11	366,451.54	357,608.00	1,396,011.61
LI Gallery <i>Modified</i>	361,962.00	279,823.00	361,962.00	330,558.00	1,334,305.00

WHEREAS, Agency Staff reviewed the modified proposals in accordance with the RFP and in furtherance of the implementation of the policies and procedures detailed in the document entitled *Seeking A Shared Vision for New Cassel* (the Reviews”), (i) finding that the modified proposal submitted by Ben’s to be more conforming to the RFP than the modified proposal provided by LI Gallery, which did not include sidewalks, driveways and air conditioning for the homes and did not provide documents as required by the RFP and (ii) recommends that Ben’s be selected as the contractor for the Project as its proposal is consistent with the Urban Renewal Plan for the New Cassel Urban Renewal Area and is the best overall conforming proposal; and

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WHEREAS, pursuant to the State Environmental Quality Review Act (“SEQRA”) regulations, the awarding of a contract to Ben’s is not an action as that term is defined in the regulations and therefore SEQRA review is not required to be completed at this time; and

WHEREAS, the construction of affordable residential housing for low and moderate income households is consistent with the Agency’s mission pursuant to General Municipal Law Section 554 (1), which is to plan and undertake one or more urban renewal projects (the “Mission Finding”); and

WHEREAS, Agency staff recommends that the Members of the Agency (the “Members”) authorize the execution of an agreement with Ben’s in an amount not to exceed \$1,396,011.61 to undertake and complete the Project for the development of affordable housing on Agency real property and additionally authorizes an Agency-controlled contingency in an amount not to exceed \$64,000 to cover unanticipated costs for the Project.

NOW, THEREFORE, BE IT

RESOLVED, that the Members select Ben’s General Contracting Corporation (the “Contractor”) as the contractor for the Project and authorizes the Agency to enter into an agreement with the Contractor in an amount not to exceed \$1,396,011.61 to undertake and complete the Project; and be it further

RESOLVED, that the Members hereby authorize an Agency-controlled contingency in an amount not to exceed \$64,000 to cover unanticipated costs for the Project; and be it further

RESOLVED, that the Executive Director and any other officer of the Agency are hereby authorized to execute the agreement and other documents, and to take such other action, as may be necessary to implement the foregoing.

Upon the motion of Mr. Bailey and seconded by Mr. Weitzman, the resolution was unanimously adopted.

RESOLUTION NO. 22 (2014)

A RESOLUTION AUTHORIZING THE EXECUTION OF A HOME INVESTMENT PARTNERSHIPS PROGRAM ASSISTANCE AGREEMENT.

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WHEREAS, the Secretary (the “Secretary”) of the U.S. Department of Housing and Urban Development (“HUD”) is authorized under Title II of the HOME Investment Partnerships Act, as set forth in the National Affordable Housing Act of 1990 (the “Act”) to make grants to states and other units of general local government to help finance HOME Investment Partnerships (“HOME”) programs; and

WHEREAS, the Town of North Hempstead Community Development Agency (the “Agency”) submitted an application for HOME program funds submitted to the County of Nassau Office of Community Development (“OCD”) for a scattered site development project to construct affordable single-family dwellings on real property owned by the Agency known as (i) 876 Brush Hollow Road, Westbury, New York, identified on the Land and Tax Map of Nassau County (the “Map”), as Section 11, Block 167, Lot 31, (ii) Third Street, Westbury, New York, identified on the Map as Section 11, Block 167, Lot 32, (iii) 265 Covert Street, Westbury, New York, identified on the Map as Section 11, Block 97, Lots 40, 41, 42, and (iv) 216 Brooklyn Avenue, Westbury, New York, identified on the Map as Section 11, Block 122, Lots 18, 19 and 20 (collectively, the “Project”); and

WHEREAS, OCD has issued a commitment letter dated May 30, 2014, which finds the Project to be consistent with HUD HOME Program objectives and Nassau County’s Consolidated Plan and has reserved \$175,000 per housing or a total of \$700,000 for the Project (the “Funds”); and

WHEREAS, the Agency Staff recommends that the Members of the Agency accept the HOME funds to be used for this Project and authorize the execution of a HOME Investment Partnership Program Assistance Agreement with Nassau County for the allocation of the Funds and their payment for the undertaking and completion of the Project (the “Staff Recommendation”).

NOW, THEREFORE, BE IT

RESOLVED, that the Members hereby authorize and adopt the Staff Recommendation; and be it further

RESOLVED, that the Executive Director of the Agency or any officer thereof is hereby authorized to execute such agreements and instruments and to take such other action as may be reasonably necessary to effectuate the foregoing.

Upon the motion of Mr. Greilsheimer and seconded by Mr. Nathan, the resolution was unanimously adopted.

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RESOLUTION NO. 23 (2014)

A RESOLUTION AUTHORIZING THE EXPENDITURE OF COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM LINE FUNDS TOWARD THE SCATTERED SITE PROJECT IN NEW CASSEL, NEW YORK AND DOWN PAYMENT ASSISTANCE FOR HOMEBUYERS OF SINGLE FAMILY DWELLINGS CONSTRUCTED DURING THE PROJECT.

WHEREAS, pursuant to Resolution No. 21(2014), duly adopted at its meeting held on August 5, 2014, the Members of the Town of North Hempstead Community Development Agency (the "Agency") selected a builder for a scattered site development project to construct affordable single-family dwellings on real property owned by the Agency (the "Project") known as (i) 876 Brush Hollow Road, Westbury, New York, identified on the Land and Tax Map of Nassau County (the "Map") as Section 11, Block 167, Lot 31 (the "Brush Hollow Road Site"), (ii) Third Street, Westbury, New York, identified on the Map as Section 11, Block 167, Lot 32 (the "Third Street Site"), (iii) 265 Covert Street, Westbury, New York, identified on the Map as Section 11, Block 97, Lots 40, 41, 42 (the Covert Street Site"), and (iv) 216 Brooklyn Avenue, Westbury, New York, identified on the Map as Section 11, Block 122, Lots 18, 19 and 20 (the "Brooklyn Avenue Site"); and

WHEREAS, the Project involves the substantial renovation of an existing dwelling at the Brush Hollow Road Site and the construction of three single-family dwellings on vacant lots located at the Third Street, Covert Street and Brooklyn Avenue Sites; and

WHEREAS, the Agency has applied for funds through the HOME Investment Partnerships ("HOME") program and by letter dated May 30, 2014, the County of Nassau Office of Community Development ("OCD") has committed \$175,000 per dwelling for the Project; and

WHEREAS, the Agency will be seeking additional funding through the New York State Affordable Housing Corporation ("AHC") in the amount of \$40,000 per dwelling on the Third Street, Covert Street and Brooklyn Avenue Sites; however, since the Brush Hollow Road Site is a renovation project, it is ineligible for funding from the AHC; and

WHEREAS, in an effort to make the single family homes more affordable, the Agency Staff recommends that the Members of the Agency authorize \$134,446 to be allocated from the Community Development Block Grant Program Lines for the Brush Hollow Road Site

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and to make down payment assistance grants available to homebuyers in the total amount of \$40,000 per dwelling at the Third Street, Covert Street and Brooklyn Avenue Sites and \$60,000 for the dwelling at the Brush Hollow Road Site (“Down Payment Assistance”) pursuant to the Down Payment Assistance guidelines outlined by Agency Staff (the “Staff Recommendation”); and

WHEREAS, the Members wish to authorize and adopt the Staff Recommendation.

NOW THEREFORE, BE IT

RESOLVED, that the Members of the Agency hereby authorize and adopt the Staff Recommendation; and be it further

RESOLVED, that the Executive Director of the Agency and any officer thereof are hereby authorized to execute such instruments and documents and to take such other action as may necessary to carry out the foregoing.

Upon the motion of Mr. Caines and seconded by Mr. Weitzman, the resolution was unanimously adopted.

RESOLUTION NO. 24 (2014)

**A RESOLUTION APPROVING A BUDGET TRANSFER OF FUNDS TO THE
DOWN PAYMENTS ASSISTANCE LINE.**

WHEREAS, pursuant to Resolution No. 23(2014), duly adopted at its meeting held on August 5, 2014, the Members of the Town of North Hempstead Community Development Agency (the “Agency”) authorized down payment assistance for homebuyers of affordable single-family dwellings constructed as part of a scattered site development project on real property owned by the Agency (the “Project”) known as (i) 876 Brush Hollow Road, Westbury, New York, identified on the Land and Tax Map of Nassau County (the “Map”) as Section 11, Block 167, Lot 31 (the “Brush Hollow Road Site”), (ii) Third Street, Westbury, New York, identified on the Map as Section 11, Block 167, Lot 32 (the “Third Street Site”), (iii) 265 Covert Street, Westbury, New York, identified on the Map as Section 11, Block 97, Lots 40, 41, 42 (the Covert Street Site”), and (iv) 216 Brooklyn Avenue, Westbury, New York, identified on the Map as Section 11, Block 122, Lots 18, 19 and 20 (the “Brooklyn Avenue Site”); and

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The members of the Agency, by unanimous vote, adjourned the meeting at 8:23 p.m.