
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

706 NORTH CLINTON, LLC PROJECT

TRANSCRIPT OF PROCEEDINGS

CLOSING DATE: JULY 30, 2014

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

706 NORTH CLINTON, LLC PROJECT

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706 NORTH CLINTON, LLC

AND

**CITY OF SYRACUSE
INDUSTRIAL DEVELOPMENT AGENCY**

COMPANY LEASE AGREEMENT

DATED AS OF JULY 1, 2014

COMPANY LEASE AGREEMENT

THIS COMPANY LEASE AGREEMENT (the “*Company Lease*”), made and entered into as of June 1, 2014, by and between **706 NORTH CLINTON, LLC** (the “*Company*”), a limited liability company organized under the laws of the State of New York with an office at 148 Berwyn Avenue, Syracuse, New York 13210 and **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY** (the “*Agency*”), a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York, with an office at 333 West Washington Street, Suite 130, Syracuse, New York 13202.

WITNESSETH:

WHEREAS, Title 1 of Article 18-A of the New York General Municipal Law (the “*Enabling Act*”) was duly enacted into law as Chapter 1030 of the New York Laws of 1969; and

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages, and towns in the State of New York and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip, and dispose of land and any buildings or other improvements, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, or industrial purposes, in order to advance the job opportunities, health, general prosperity, and economic welfare of the people of the State of New York and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease or sell any or all of its properties, to mortgage and pledge any or all of its properties, whether then owned or thereafter acquired, and to pledge the revenues and receipts from the lease or sale thereof; and

WHEREAS, the Agency was created pursuant to and in accordance with the provisions of the Enabling Act by Chapter 641 of the Laws of 1979 of the State of New York (collectively with the Enabling Act, the “*Act*”) and is empowered under the Act to undertake the Project (as hereinafter defined); and

WHEREAS, the Agency, by resolution adopted on December 17, 2013, agreed, at the request of the Company to undertake a project (the “*Project*”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the “*Land*”); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the “*Facility*”); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State

and local sales and use taxation and mortgage recording tax (the “*Financial Assistance*”); (C) the appointment of the Company as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Company is the current owner of the Project Facility; and

WHEREAS, the Agency proposes to assist the Company’s acquisition, reconstruction renovation and equipping of the Project Facility; and grant the Financial Assistance to the Project by, among other things: (1) appointing the Company as its agent with respect to the Project Facility; (2) accepting a leasehold interest in the Land and Facility from the Company pursuant to this Company Lease and acquiring an interest in the Equipment pursuant to a bill of sale from the Company; and (3) subleasing the Project Facility to the Company pursuant to the Agency Lease; and

WHEREAS, the Agency now proposes to lease the Land and Facility from the Company pursuant to the terms and conditions set forth herein; and

WHEREAS, all things necessary to constitute this Company Lease a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution, and delivery of this Company Lease have, in all respects, been duly authorized;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto hereby formally covenant, agree, and bind themselves as follows, to wit:

ARTICLE I

DEFINITIONS

1.1 DEFINITIONS.

For all purposes of this Company Lease and any agreement supplemental thereto, all defined terms indicated by the capitalization of the first letter of such term shall have the meanings specified in the Table of Definitions which is attached to the Agency Lease as Exhibit “C” thereto except as otherwise expressly defined herein or the context hereof otherwise requires.

1.2 INTERPRETATION.

In this Company Lease, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “herein,” “hereunder,” and any similar terms as used in this Company Lease refer to this Company Lease; the term “heretofore” shall mean before and the term “hereafter” shall mean after the date of this Company Lease;

(b) Words of masculine gender shall mean and include correlative words of feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa; and

(c) Any certificates, letters, or opinions required to be given pursuant to this Company Lease shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law, or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Company Lease.

ARTICLE II

DEMISE; PREMISES; TERM

2.1 DEMISE.

The Company hereby leases to the Agency, and the Agency hereby leases from the Company, the Land and the Facility for the stated term for the rents, covenants and conditions set forth herein subject only to the Permitted Encumbrances.

2.2 DESCRIPTION OF PREMISES LEASED.

The leased premises is the Land and the Facility described in the recitals of this Company Lease and as more fully described on **Exhibit "A"** attached hereto.

2.3 TERM.

The Project is leased for a term which shall commence as of July 1, 2014, and shall end on the expiration or earlier termination of the Agency Lease.

2.4 MANDATORY CONVEYANCE.

At the expiration of the term hereof or any extension thereof by mutual agreement, or as otherwise provided in the Agency Lease, this Company Lease shall automatically expire without any further action by the parties hereto, and the Agency shall confirm in writing the termination of its interest in the Project under this Company Lease and the Agency Lease. The Company hereby irrevocably designates the Agency as its attorney-in-fact, coupled with an interest, for the purpose of executing, delivering and recording terminations of leases and bill of sale together with any other documents therewith and to take such other and further actions reasonably necessary to confirm the termination of the Agency's interest in the Project.

2.5 CONSIDERATION.

The Agency is paying to the Company concurrently with the execution hereof consideration of \$1.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Company.

2.6 REPRESENTATIONS AND COVENANTS OF THE COMPANY.

The Company makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Company is a limited liability company duly organized, validly existing and in good standing under the laws of New York, has the power to enter into this Company Lease and the other Company Documents and to carry out its obligations hereunder and thereunder, and has duly authorized the execution, delivery, and performance of this Company Lease and the other Company Documents.

(b) This Company Lease and the other Company Documents constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid and legally binding obligations of the Company, enforceable in accordance with their respective terms.

(c) The Company is the present fee owner of the Project Facility and shall remain the fee owner of the Project Facility for the term of this Company Lease unless otherwise consented to in writing by the Agency.

(d) Neither the execution and delivery of this Company Lease and the other Company Documents, the consummation of the transactions contemplated thereby, nor the fulfillment of or compliance with the provisions thereof will:

(1) Result in a breach of, or conflict with any term or provision in, the Company's Articles of Organization and Operating Agreement;

(2) Require consent under (which has not been heretofore received) or result in a breach of or default under any credit agreement, indenture, purchase agreement, mortgage, deed of trust, commitment, guaranty or other agreement or instrument to which the Company is a party or by which the Company or any of its property may be bound or affected; or

(3) Conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction, or decree of any Governmental Authority or court (domestic or foreign) having jurisdiction over the Company or any of the property of the Company.

(g) So long as the Agency holds an interest in the Project Facility, the Project Facility is and will continue to be a "project" (as such quoted term is defined in the Act), and the Company will not take any action (or omit to take any action required by the Company Documents or which the Agency, together with Agency's counsel, advise the Company in writing should be taken), or allow any action to be taken, which action (or omission) would in any way cause the Project Facility not to constitute a "project" (as such quoted term is defined in the Act).

(h) The Company shall cause all notices as required by law to be given and shall comply or cause compliance with all laws, ordinances, municipal rules, and regulations and requirements of all Governmental Authorities applying to or affecting the construction, reconstruction, equipping and operation of the Project Facility (the applicability of such laws, ordinances, rules, and regulations to be determined both as if the Agency were the owner of the Project Facility and as if the Company, were the owner of the Project Facility), and the Company will defend and save the Agency and its officers, members, agents (other than the Company), and employees harmless from all fines and penalties due to failure to comply therewith.

(i) The Company shall perform, or cause to be performed, for and on behalf of the Agency, each and every obligation of the Agency (which is within the control of the Company) under and pursuant to the Agency Lease, this Company Lease and the other Company Documents and shall defend, indemnify, and hold harmless the Agency and its members, officers, agents (other than the Company), servants, and employees from and against every expense, liability, or claim arising out of the failure of the Company to fulfill its obligations under the provisions of this Section 2.6.

(j) The Company restates and affirms the representations, warranties and covenants set forth in Section 2.2 of the Agency Lease as if fully set forth herein.

ARTICLE III

DISPUTE RESOLUTION

3.1 GOVERNING LAW.

This Company Lease shall be governed in all respects by the laws of the State of New York.

3.2 WAIVER OF TRIAL BY JURY.

THE COMPANY AND THE AGENCY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY DISPUTE ARISING UNDER THIS COMPANY LEASE, AND THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS COMPANY LEASE.

ARTICLE IV

MISCELLANEOUS CLAUSES

4.1 NOTICES.

All notices, certificates, and other communications hereunder shall be in writing, shall be sufficiently given, and shall be deemed given when (a) sent to the applicable address stated below by registered or certified mail, return receipt requested, and actually received by the intended recipient or by overnight courier or such other means as shall provide the sender with

documentary evidence of such delivery, or (b) delivery is refused by the addressee as evidenced by the affidavit of the Person who attempted to effect such delivery. The addresses to which notices, certificates, and other communications hereunder shall be delivered are as follows:

(a) To the Agency:

City of Syracuse Industrial Development Agency
333 West Washington Street, Suite 130
Syracuse, New York 13202
Attn: Chairman

With copies to:

Corporation Counsel
City of Syracuse
233 East Washington Street
Syracuse, New York 13202

(b) To the Company:

706 North Clinton, LLC
c/o Emhoff Associates, LLC
126 North Salina Street
Syracuse, New York 13202
Attn: Joshua Podkaminer, Manager

With copies to:

Mark Arbon, Esq.
Sarofeen & Arbon, PLLC
One Lincoln Center, Suite 1110
110 W. Fayette Street
Syracuse, New York 13202

4.2 NO RECOURSE UNDER THIS COMPANY LEASE.

No provision, covenant or agreement contained herein, in any other agreement entered into in connection herewith, or any obligations herein imposed, upon the Agency, or any breach thereof, shall constitute or give rise to or impose upon the Agency, a debt or other pecuniary liability or a charge upon its general credit, and all covenants, stipulations, promises, agreements and obligations of the Agency contained in this Company Lease shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent of the Agency in his individual capacity.

4.3 ENTIRE AGREEMENT.

This Company Lease contains the entire agreement between the parties and all prior negotiations and agreements are merged in this Company Lease. This Company Lease may not be changed, modified or discharged, in whole or in part, except by a written instrument executed by the party against whom enforcement of the change, modification or discharge is sought.

4.4 AGENCY REPRESENTATIONS.

The Company expressly acknowledges that neither the Agency nor the Agency's directors, members, employees or agents has made or is making, and the Company, in executing and delivering this Company Lease, is not relying upon warranties, representations, promises or statements, except to the extent that the same are expressly set forth in this Company Lease, and no rights, easements or licenses are or shall be acquired by the Company by implication or otherwise unless expressly set forth in this Company Lease.

4.5 BINDING EFFECT.

This Company Lease shall be binding upon and inure to the benefit of the parties, their respective successors and assigns.

4.6 PARAGRAPH HEADINGS.

Paragraph headings are for convenience only and shall not affect the construction or interpretation of this Company Lease.

4.7 CONSENT TO AGENCY LEASE; SUBORDINATION.

The Company hereby consents to the sublease by the Agency of the Project Facility to the Company pursuant to the Agency Lease. The Company acknowledges and agrees that this Company Lease and the Agency Lease shall be subordinate in all respects to the Mortgage.

4.8 HOLD HARMLESS PROVISIONS.

(a) The Company hereby releases the Agency and its members, officers, agents, and employees from, agree that the Agency and its members, officers, agents, and employees shall not be liable for, and agree to indemnify, defend, and hold the Agency and its members, officers, agents, and employees harmless from and against any and all claims arising as a result of the Agency's undertaking of the Project, including, but not limited to:

(1) Liability for loss or damage to Property or bodily injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Project Facility, or arising by reason of or in connection with the occupation or the use thereof, or the presence on, in, or about the Project Facility;

(2) Liability arising from or expense incurred by the Agency's acquisition of a leasehold interest in the Project Facility and the subleasing of the Project Facility, including, without limiting the generality of the foregoing, all liabilities or claims arising as a result of the Agency's obligations under the Agency Lease, the Company Lease or the Mortgage;

(3) All claims arising from the exercise by the Company of the authority conferred upon it and performance of the obligations assumed under Article II hereof;

(4) All causes of action and attorneys' fees and other expenses incurred in connection with any suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities, or expenses of the Agency are not incurred or do not result from the intentional wrongdoing of the Agency or any of its members, officers, agents, or employees.

The foregoing indemnities shall apply notwithstanding the fault or negligence (other than gross negligence or willful misconduct) on the part of the Agency or any of its officers, members, agents, servants, or employees and irrespective of any breach of statutory obligation or any rule of comparative or apportioned liability.

(b) In the event of any claim against the Agency or its members, officers, agents, or employees by any employee of the Company, or any contractor of the Company, or anyone directly or indirectly employed by any of them, or any one for whose acts any of them may be liable, the obligations of the Company hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Company such contractor under workers' compensation laws, disability benefit laws, or other employee benefit laws.

(c) Notwithstanding any other provisions of this Company Lease, the obligations of the Company pursuant to this Section 4.8 shall remain in full force and effect after the termination of the Agency Lease and this Company Lease until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action, or prosecution relating to the matters herein described may be brought, and the payment in full or the satisfaction of such claim, cause of action, or prosecution, and the payment of all expenses and charges incurred by the Agency, or its officers, members, agents (other than the Company), or employees, relating thereto.

(d) For purposes of this Section 4.8, the Company shall not be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

4.9 NO RECOURSE; SPECIAL OBLIGATION.

The obligations and agreements of the Agency contained herein and in the other Agency Documents and in any other instrument or document executed in connection herewith or therewith, and any instrument or document supplemental hereto or thereto, shall be deemed the obligations and agreements of the Agency and not of any member, officer, agent, or employee of

the Agency in his individual capacity; and the members, officers, agents, and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The obligations and agreements of the Agency contained herein or therein shall not constitute or give rise to an obligation of the State New York or of the City of Syracuse, and neither the State of New York nor the City of Syracuse shall be liable hereon or thereon. Further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, payable solely from the revenues of the Agency derived, and to be derived from, the lease, sale, or other disposition of the Project Facility, other than revenues derived from or constituting Unassigned Rights. No order or decree of specific performance with respect to any of the obligations of the Agency hereunder or thereunder shall be sought or enforced against the Agency unless:

(a) The party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and thirty (30) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or if compliance therewith would reasonably be expected to take longer than thirty (30) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period; and

(b) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses; and

(c) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents, or employees shall be subject to potential liability, the party seeking such order or decree shall (1) agree to indemnify and hold harmless the Agency and its members, officers, agents, and employees against any liability incurred as a result of its compliance with such demand; and (2) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents, and employees against all liability expected to be incurred as a result of compliance with such request.

Any failure to provide notice, indemnity, or security to the Agency pursuant to this Section 4.9 shall not alter the full force and effect of any Event of Default under the Agency Lease.

(d) For purposes of this Section 4.9, the Company shall not be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

4.10 MERGER OF AGENCY.

(a) Nothing contained in this Company Lease shall prevent the consolidation of the Agency with, or merger of the Agency into, or assignment by the Agency of its rights and interests hereunder to any other body corporate and politic and public instrumentality of the State of New York, or political subdivision thereof, which has the legal authority to perform the

obligations of the Agency hereunder, provided that upon any such consolidation, merger, or assignment, the due and punctual performance and observance of all the agreements and conditions of this Company Lease to be kept and performed by the Agency shall be expressly assumed in writing by the public instrumentality or political subdivision resulting from such consolidation or surviving such merger or to which the Agency's rights and interests hereunder shall be assigned.

(b) As of the date of any such consolidation, merger, or assignment, the Agency shall give notice thereof in reasonable detail to the Company. The Agency shall promptly furnish to the Company such additional information with respect to any such consolidation, merger, or assignment as the Company reasonably may request.

4.11 EVENT OF DEFAULT.

A default in the performance or the observance of any covenants, conditions, or agreements on the part of the Company in this Company Lease.

4.12 REMEDIES.

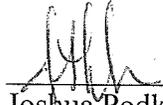
(a) Whenever any Event of Default shall have occurred and be continuing, the Agency may, to the extent permitted by law, take any one or more of the following remedial steps:

- 1) Terminate the Company Lease; or
- 2) Take any other action at law or in equity, which may appear necessary or desirable to collect any amounts then due, or thereafter to become due, hereunder.

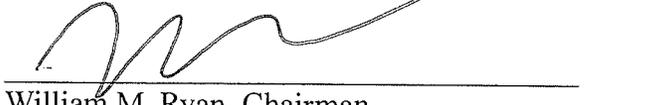
(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the Company and the Agency have duly executed this Company Lease, as of the day and year first above written.

706 NORTH CLINTON, LLC

By:  _____
Joshua Podkaminer, Manager

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By:  _____
William M. Ryan, Chairman

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

On the 30th day of July, 2014, before me, the undersigned, personally appeared **JOSHUA PODKAMINER**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Lori L. McRobbie

Notary Public
LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 15

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

On the 29th day of July, 2014, before me, the undersigned, personally appeared **WILLIAM M. RYAN**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Lori L. McRobbie

Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 15

EXHIBIT A
DESCRIPTION OF REAL PROPERTY

EXHIBIT "A"

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block "C" of the former Village of Salina and a portion of the former Oswego Canal in said City and being more particularly bounded and described as follows:

BEGINNING at the intersection of the monumented easterly street line of North Clinton Street with the monumented southerly street line of Spencer Street; thence North 61 deg. 33 min. 00 sec. East along said southerly street line, a distance of 237.19 feet to a point of curvature; thence along the westerly highway boundary of Parcel Nos. 79, 78, & 173 of Map No. 75R-1 and Parcel No. 142 of Map No. 74, in part by each, as appropriated by N.Y.S.D.O.T. for Interstate Route 81 (S.H. 505-3-2.3) the following five (5) courses and distances: 1) along the arc of a tangent curve to the right having a radius of 20.00 feet, length of 22.91 feet and chord of South 85 deg. 27 min. 09 sec. East, 21.68 feet to a point of tangency; thence 2) South 52 deg. 47 min. 40 sec. East, a distance of 63.53 feet to a point of curvature; thence 3) along the arc of a tangent curve to the right having a radius of 257.00 feet, length of 108.64 feet and chord of South 40 deg. 31 min. 27 sec. East, 107.84 feet to a point; thence 4) South 62 deg. 08 min. 26 sec. West, a distance of 1.02 feet to a point; and 5) South 26 deg. 33 min. 58 sec. East, a distance of 210.53 feet to its intersection with the division line between the lands now or formerly of Greif Bros. Corporation as described in Book 3243 of Deeds at Page 195 on the north and the lands now or formerly of Expressway Properties, LLC as described in Book 4100 of Deeds at Page 50 on the south; thence the following three (3) courses and distances along said division line: 1) South 59 deg. 22 min. 10 sec. West, a distance of 157.07 feet to a point; thence 2) South 28 deg. 04 min. 00 sec. East, a distance of 19.18 feet to a point on a curve; and 3) along the arc of a non-tangent curve to the left having a radius of 320.00 feet, length of 197.96 feet and chord of South 18 deg. 57 min. 26 sec. West, 194.82 feet to its intersection with the aforementioned easterly street line of North Clinton Street, said point being North 28 deg. 04 min. 00 sec. West, along said easterly street line, 32.00 feet from its intersection with the northerly street line of West Division Street; thence North 28 deg. 04 min. 00 sec. West, along said easterly street line, a distance of 542.85 feet to the point of beginning, containing 2.866 acres of land, more or less.

2

ONONDAGA COUNTY CLERK'S OFFICE
 SANDRA A SCHEPP - COUNTY CLERK
 401 Montgomery St - Room 200
 Syracuse, NY 13202

Phone: 315-435-2226
 Fax: 315-435-3455

Doc Type: M/LEAS
 Grantor: 706 NORTH CLINTON LLC
 CITY OF SYRACUSE INDUSTRIAL
 Grantee: CITY OF SYRACUSE INDUSTRIAL
 706 NORTH CLINTON LLC
 Legal Desc: SYR BLK C & OSWEGO CANAL SAL N W

Receipt: 1159160 RS
 Book/Page: 05290/0318 Inst: 24403
 Date Filed: 07/30/2014 at 2:44PM
 Updated: 07/31/2014 MS
 Record and Return To:

MARK ARBON ESQ
 SAROFEEEN & ARBON PLLC
 ONE LINCOLN CENTER STE 1110
 SYRACUSE NY 13202

Prop Address: 706-16 CLINTON ST N & SPENCER ST

Submitted by: SAROFEEEN & ARBON

Recording Fees		Miscellaneous Fees	
Addl pages:	4 x 5.00 = \$ 20.00	RMI:	\$ 20.00
Addl Names:	0 x 0.50 = \$ 0.00	TP 584:	\$ 5.00
Addl Refs:	0 x 0.50 = \$ 0.00	RP5217:	\$ 0.00
Misc:	0.00	AFFTS:	\$ 0.00
Basic:	\$25.50		
=====		=====	
TOTAL:	\$45.50	TOTAL:	\$ 25.00

MORTGAGE TAX		DEED TRANSFER TAX	
Mortgage:		Consideration	\$0.00
Basic:	\$0.00	Transfer Tax:	\$0.00
Ins Fund:	\$0.00	SWIS:	3115
Net Add:	\$0.00	Map #:	118-04-01.0
Misc:	\$0.00		=====
=====		Total Paid	\$ 70.50
TOTAL	\$0.00	Control no	11837

WARNING - This sheet constitutes the Clerk's endorsement, required by Section 319 of the Real Property Law of the State of New York. Do not detach. Taxes imposed on this instrument at time of recording were paid. Certain information contained in this document is not verified by this office.

SANDRA A SCHEPP
 Onondaga County Clerk

Book/Page 05290 / 0318 Instrument no.: 24403



MEMORANDUM OF
COMPANY LEASE AGREEMENT

NAME AND ADDRESS OF LESSOR: 706 North Clinton, LLC
c/o Emhoff Associates, LLC
126 North Salina Street
Syracuse, New York 13202

NAME AND ADDRESS OF LESSEE: City of Syracuse Industrial Development Agency
333 West Washington Street, Suite 130
Syracuse, New York 13202

DESCRIPTION OF LEASED PREMISES:

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being more particularly described in **Exhibit "A"** annexed hereto, together with the improvements thereon.

DATE OF EXECUTION OF COMPANY LEASE AGREEMENT:

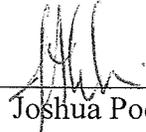
As of July 1, 2014

TERM OF COMPANY LEASE AGREEMENT:

The Project is leased for a term which shall commence as of July 1, 2014, and shall end on the expiration or earlier termination of the Agency Lease.

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum as of the 1st day of July, 2014.

706 NORTH CLINTON, LLC

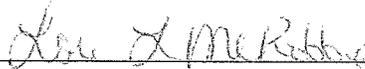
By:  _____
Joshua Podkaminer, Manager

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By:  _____
William M. Ryan, Chairman

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

On the 30th day of July, 2014, before me, the undersigned, personally appeared **JOSHUA PODKAMINER**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

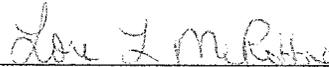


Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18

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

On this 29th day of July, 2014, before me, the undersigned, personally appeared **WILLIAM M. RYAN**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18

EXHIBIT "A"

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block "C" of the former Village of Salina and a portion of the former Oswego Canal in said City and being more particularly bounded and described as follows:

BEGINNING at the intersection of the monumented easterly street line of North Clinton Street with the monumented southerly street line of Spencer Street; thence North 61 deg. 33 min. 00 sec. East along said southerly street line, a distance of 237.19 feet to a point of curvature; thence along the westerly highway boundary of Parcel Nos. 79, 78, & 173 of Map No. 75R-1 and Parcel No. 142 of Map No. 74, in part by each, as appropriated by N.Y.S.D.O.T. for Interstate Route 81 (S.H. 505-3-2.3) the following five (5) courses and distances: 1) along the arc of a tangent curve to the right having a radius of 20.00 feet, length of 22.91 feet and chord of South 85 deg. 27 min. 09 sec. East, 21.68 feet to a point of tangency; thence 2) South 52 deg. 47 min. 40 sec. East, a distance of 63.53 feet to a point of curvature; thence 3) along the arc of a tangent curve to the right having a radius of 257.00 feet, length of 108.64 feet and chord of South 40 deg. 31 min. 27 sec. East, 107.84 feet to a point; thence 4) South 62 deg. 08 min. 26 sec. West, a distance of 1.02 feet to a point; and 5) South 26 deg. 33 min. 58 sec. East, a distance of 210.53 feet to its intersection with the division line between the lands now or formerly of Greif Bros. Corporation as described in Book 3243 of Deeds at Page 195 on the north and the lands now or formerly of Expressway Properties, LLC as described in Book 4100 of Deeds at Page 50 on the south; thence the following three (3) courses and distances along said division line: 1) South 59 deg. 22 min. 10 sec. West, a distance of 157.07 feet to a point; thence 2) South 28 deg. 04 min. 00 sec. East, a distance of 19.18 feet to a point on a curve; and 3) along the arc of a non-tangent curve to the left having a radius of 320.00 feet, length of 197.96 feet and chord of South 18 deg. 57 min. 26 sec. West, 194.82 feet to its intersection with the aforementioned easterly street line of North Clinton Street, said point being North 28 deg. 04 min. 00 sec. West, along said easterly street line, 32.00 feet from its intersection with the northerly street line of West Division Street; thence North 28 deg. 04 min. 00 sec. West, along said easterly street line, a distance of 542.85 feet to the point of beginning, containing 2.866 acres of land, more or less.

Bit Sal No + Oswego Canal Sal No



Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax

Recording office time stamp

See Form TP-584-I, Instructions for Form TP-584, before completing this form. Print or type.

Schedule A – Information relating to conveyance

Grantor/Transferor <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input checked="" type="checkbox"/> Other	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantor) 706 North Clinton, LLC Mailing address c/o Emhoff Associates, LLC, 126 North Salina Street City State ZIP code Syracuse NY 13205	Social security number Social security number Federal EIN 46-1284677
	Single member's name if grantor is a single member LLC (see instructions)	Single member EIN or SSN
Grantee/Transferee <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input checked="" type="checkbox"/> Other	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantee) City of Syracuse Industrial Development Agency Mailing address 333 West Washington Street, Suite 130 City State ZIP code Syracuse NY 13202	Social security number Social security number Federal EIN 52-1380308
	Single member's name if grantee is a single member LLC (see instructions)	Single member EIN or SSN

Location and description of property conveyed

Tax map designation – Section, block & lot (include dots and dashes)	SWIS code (six digits)	Street address	City, town, or village	County
118-04-01.0		706-16 Clinton Street North and Spencer St.	Syracuse	Onondaga

Type of property conveyed (check applicable box)

1 <input type="checkbox"/> One- to three-family house 2 <input type="checkbox"/> Residential cooperative 3 <input type="checkbox"/> Residential condominium 4 <input type="checkbox"/> Vacant land	5 <input checked="" type="checkbox"/> Commercial/Industrial 6 <input type="checkbox"/> Apartment building 7 <input type="checkbox"/> Office building 8 <input type="checkbox"/> Other _____	Date of conveyance <table border="1" style="display: inline-table; text-align: center;"> <tr> <td style="width: 20px;">07</td> <td style="width: 20px;">30</td> <td style="width: 20px;">2014</td> </tr> <tr> <td>month</td> <td>day</td> <td>year</td> </tr> </table>	07	30	2014	month	day	year	Percentage of real property conveyed which is residential real property _____ 0 % (see instructions)
07	30	2014							
month	day	year							

Condition of conveyance (check all that apply)

- | | | |
|---|--|---|
| a. <input type="checkbox"/> Conveyance of fee interest

b. <input type="checkbox"/> Acquisition of a controlling interest (state percentage acquired _____ %) | f. <input type="checkbox"/> Conveyance which consists of a mere change of identity or form of ownership or organization (attach Form TP-584.1, Schedule F)

g. <input type="checkbox"/> Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G) | i. <input type="checkbox"/> Option assignment or surrender

m. <input type="checkbox"/> Leasehold assignment or surrender |
| c. <input type="checkbox"/> Transfer of a controlling interest (state percentage transferred _____ %) | h. <input type="checkbox"/> Conveyance of cooperative apartment(s) | n. <input checked="" type="checkbox"/> Leasehold grant |
| d. <input type="checkbox"/> Conveyance to cooperative housing corporation | i. <input type="checkbox"/> Syndication | o. <input type="checkbox"/> Conveyance of an easement |
| e. <input type="checkbox"/> Conveyance pursuant to or in lieu of foreclosure or enforcement of security interest (attach Form TP-584.1, Schedule E) | j. <input type="checkbox"/> Conveyance of air rights or development rights
k. <input type="checkbox"/> Contract assignment | p. <input type="checkbox"/> Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part III)

q. <input type="checkbox"/> Conveyance of property partly within and partly outside the state

r. <input type="checkbox"/> Conveyance pursuant to divorce or separation
s. <input type="checkbox"/> Other (describe) _____ |

<i>For recording officer's use</i>	Amount received Schedule B., Part I \$ _____ Schedule B., Part II \$ _____	Date received	Transaction number
------------------------------------	--	---------------	--------------------

Schedule B – Real estate transfer tax return (Tax Law, Article 31)

Part I – Computation of tax due

1	Enter amount of consideration for the conveyance (if you are claiming a total exemption from tax, check the exemption claimed box, enter consideration and proceed to Part III) <input checked="" type="checkbox"/> Exemption claimed	1.		0	00
2	Continuing lien deduction (see instructions if property is taken subject to mortgage or lien)	2.		0	00
3	Taxable consideration (subtract line 2 from line 1)	3.		0	00
4	Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3	4.		0	00
5	Amount of credit claimed for tax previously paid (see instructions and attach Form TP-584.1, Schedule G)	5.		0	00
6	Total tax due* (subtract line 5 from line 4)	6.		0	00

Part II – Computation of additional tax due on the conveyance of residential real property for \$1 million or more

1	Enter amount of consideration for conveyance (from Part I, line 1)	1.		
2	Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A) ...	2.		
3	Total additional transfer tax due* (multiply line 2 by 1% (.01))	3.		

Part III – Explanation of exemption claimed on Part I, line 1 (check any boxes that apply)

The conveyance of real property is exempt from the real estate transfer tax for the following reason:

- a. Conveyance is to the United Nations, the United States of America, the state of New York, or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or Canada) a
- b. Conveyance is to secure a debt or other obligation..... b
- c. Conveyance is without additional consideration to confirm, correct, modify, or supplement a prior conveyance..... c
- d. Conveyance of real property is without consideration and not in connection with a sale, including conveyances conveying realty as bona fide gifts d
- e. Conveyance is given in connection with a tax sale e
- f. Conveyance is a mere change of identity or form of ownership or organization where there is no change in beneficial ownership. (This exemption cannot be claimed for a conveyance to a cooperative housing corporation of real property comprising the cooperative dwelling or dwellings.) Attach Form TP-584.1, Schedule F..... f
- g. Conveyance consists of deed of partition..... g
- h. Conveyance is given pursuant to the federal Bankruptcy Act h
- i. Conveyance consists of the execution of a contract to sell real property, without the use or occupancy of such property, or the granting of an option to purchase real property, without the use or occupancy of such property i
- j. Conveyance of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than \$200,000 and such property was used solely by the grantor as the grantor's personal residence and consists of a one-, two-, or three-family house, an individual residential condominium unit, or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative apartment..... j
- k. Conveyance is not a conveyance within the meaning of Tax Law, Article 31, section 1401(e) (attach documents supporting such claim) k

*The total tax (from Part I, line 6 and Part II, line 3 above) is due within 15 days from the date conveyance. Please make check(s) payable to the county clerk where the recording is to take place. If the recording is to take place in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, make check(s) payable to the **NYC Department of Finance**. If a recording is not required, send this return and your check(s) made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule C – Credit Line Mortgage Certificate (Tax Law, Article 11)

Complete the following only if the interest being transferred is a fee simple interest.

I (we) certify that: *(check the appropriate box)*

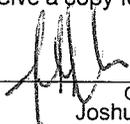
1. The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
 - The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
 - The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
 - The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
 - The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is **not** principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

Please note: for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

- Other *(attach detailed explanation)*.
3. The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
 - A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
 - A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
 4. The real property being transferred is subject to an outstanding credit line mortgage recorded in _____ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is _____. No exemption from tax is claimed and the tax of _____ is being paid herewith. *(Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City but not in Richmond County, make check payable to the NYC Department of Finance.)*

Signature (both the grantor(s) and grantee(s) must sign)

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

 _____ Grantor signature Joshua Podkaminer	Manager _____ Title	 _____ Grantee signature William M. Ryan	Chairman _____ Title
Grantor signature	Title	Grantee signature	Title

Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, to the **NYC Department of Finance**? If no recording is required, send your check(s), made payable to the **Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule D - Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, section 663)

Complete the following only if a fee simple interest or a cooperative unit is being transferred by an individual or estate or trust.

If the property is being conveyed by a referee pursuant to a foreclosure proceeding, proceed to Part II, and check the second box under Exemptions for nonresident transferor(s)/seller(s) and sign at bottom.

Part I - New York State residents

If you are a New York State resident transferor(s)/seller(s) listed in Schedule A of Form TP-584 (or an attachment to Form TP-584), you must sign the certification below. If one or more transferors/sellers of the real property or cooperative unit is a resident of New York State, each resident transferor/seller must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

Certification of resident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law, section 663(a) upon the sale or transfer of this real property or cooperative unit.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

Note: A resident of New York State may still be required to pay estimated tax under Tax Law, section 685(c), but not as a condition of recording a deed.

Part II - Nonresidents of New York State

If you are a nonresident of New York State listed as a transferor/seller in Schedule A of Form TP-584 (or an attachment to Form TP-584) but are not required to pay estimated personal income tax because one of the exemptions below applies under Tax Law, section 663(c), check the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor(s)/seller(s), that transferor(s)/seller(s) is not required to pay estimated personal income tax to New York State under Tax Law, section 663. Each nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all nonresident transferors/sellers.

If none of these exemption statements apply, you must complete Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, or Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*. For more information, see *Payment of estimated personal income tax*, on page 1 of Form TP-584-I.

Exemption for nonresident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) (grantor) of this real property or cooperative unit was a nonresident of New York State, but is not required to pay estimated personal income tax under Tax Law, section 663 due to one of the following exemptions:

- The real property or cooperative unit being sold or transferred qualifies in total as the transferor's/seller's principal residence (within the meaning of Internal Revenue Code, section 121) from _____ Date to _____ Date (see instructions).
- The transferor/seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure, or in lieu of foreclosure with no additional consideration.
- The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

3

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

AND

706 NORTH CLINTON, LLC

AGENCY LEASE AGREEMENT

DATED AS OF JULY 1, 2014

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EXHIBIT "E"	FORM OF ANNUAL REPORTING REQUIREMENTS
EXHIBIT "F"	FORM OF SUB-AGENT AGREEMENT

AGENCY LEASE AGREEMENT

THIS AGENCY LEASE AGREEMENT, dated as of July 1, 2014 (the "**Agency Lease**"), by and between the **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a body corporate and politic and a public instrumentality of the State of New York, having its office at 333 West Washington Street, Suite 130, Syracuse, New York 13202 (the "**Agency**"), and **706 NORTH CLINTON, LLC**, a New York limited liability company having its office at c/o Emhoff Associates, LLC, 126 North Salina Street, Syracuse, New York 13202 (the "**Company**").

WITNESSETH:

WHEREAS, the Agency is authorized and empowered by Title I of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "**Act**"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, 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, among other things, to: (i) make contracts and leases, and to execute such documents as necessary or convenient, with a public or private person, firm, partnership, or corporation; (ii) to acquire, construct, reconstruct, lease, improve, maintain, equip or furnish one or more projects (as defined in the Act); and (iii) to sell, lease and otherwise dispose of any such property; and

WHEREAS, the Agency, by resolution adopted on December 17, 2013, agreed, at the request of the Company to undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the "**Facility**"); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the "**Financial Assistance**"); (C) the appointment of the Company as an agent of the Agency in connection with the acquisition,

renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency proposes to assist the Company's acquisition, reconstruction, renovation and equipping of the Project Facility and grant the Financial Assistance to the Project by, among other things, (1) accepting a leasehold interest in the Land and Facility from the Company and a fee interest in the Equipment; and (2) subleasing the Project Facility to the Company pursuant to this Agency Lease; and

WHEREAS, the Company has leased the Land and the Facility to the Agency pursuant to the Company Lease Agreement dated as of July 1, 2014 (the "**Company Lease**"); and

WHEREAS, the Company has conveyed title to the Equipment to the Agency pursuant to the Bill of Sale; and

WHEREAS, the Agency now proposes to sublease the Project Facility to the Company pursuant to the terms and conditions herein set forth; and

WHEREAS, all things necessary to constitute this Agency Lease a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution, and delivery of this Agency Lease have, in all respects, been duly authorized;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto hereby formally covenant, agree, and bind themselves as follows, to wit:

ARTICLE I

DEFINITIONS

1.1 DEFINITIONS.

For all purposes of this Agency Lease and any agreement supplemental thereto, all defined terms indicated by the capitalization of the first letter of such term shall have the meanings specified in the Table of Definitions attached hereto as **Exhibit "C"** except as otherwise expressly defined herein or the context hereof otherwise requires.

1.2 INTERPRETATION.

In this Agency Lease, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "herein," "hereunder," and any similar terms as used in this Agency Lease refer to this Agency Lease; the term "heretofore" shall mean before and the term "hereafter" shall mean after the date of this Agency Lease;

(b) Words of masculine gender shall mean and include correlative words of feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa; and

(c) Any certificates, letters, or opinions required to be given pursuant to this Agency Lease shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law, or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Agency Lease.

ARTICLE II

REPRESENTATIONS AND COVENANTS

2.1 REPRESENTATIONS OF THE AGENCY.

The Agency makes the following representations to the Company as the basis for the undertakings on its part herein contained:

(a) The Agency is duly established under the provisions of the Act and has the power to enter into this Agency Lease and to carry out its obligations hereunder. Based upon the representations of the Company as to the utilization of the Project Facility, the Project Facility will constitute a “project,” as such quoted term is defined in the Act. By proper official action, the Agency has been duly authorized to execute, deliver, and perform this Agency Lease and the other Agency Documents.

(b) Neither the execution and delivery of this Agency Lease, the consummation of the transactions contemplated thereby, nor the fulfillment of or compliance with the provisions of this Agency Lease and the other Agency Documents by the Agency will conflict with or result in a breach by the Agency of any of the terms, conditions, or provisions of the Act, the By-Laws of the Agency, or any order, judgment, restriction, agreement, or instrument to which the Agency is a party or by which it is bound or will constitute a default by the Agency under any of the foregoing.

(c) This Agency Lease and the other Company Documents constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid and legally binding obligations of the Company, enforceable in accordance with their respective terms.

2.2 REPRESENTATIONS AND COVENANTS OF THE COMPANY.

The Company acknowledges, represents, warrants and covenants to the Agency as follows:

(a) The Company is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of New York, has the power to enter into this Agency Lease and the other Company Documents and to carry out its obligations

hereunder and thereunder, and has duly authorized the execution, delivery, and performance of this Agency Lease and the other Company Documents.

(b) This Agency Lease and the other Company Documents constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid and legally binding obligations of the Company, enforceable in accordance with their respective terms.

(c) The Company is the present fee owner of the Project Facility and shall remain the fee owner of the Project Facility for the term of this Company Lease unless otherwise consented to in writing by the Agency..

(d) The Project will constitute a project where facilities or property primarily used in making retail sales of goods or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project, but the Project is located within a highly distressed area, as defined in the Act. Undertaking 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.

(e) Neither the execution and delivery of this Agency Lease and the other Company Documents, the consummation of the transactions contemplated thereby, nor the fulfillment of or compliance with the provisions thereof will:

(1) Result in a breach of, or conflict with any term or provision in, the Company's Articles of Organization and Operating Agreement;

(2) Require consent under (which has not been heretofore received) or result in a breach of or default under any credit agreement, indenture, purchase agreement, mortgage, deed of trust, commitment, guaranty or other agreement or instrument to which the Company is a party or by which the Company or any of its property may be bound or affected; or

(3) Conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction, or decree of any Governmental Authority or court (domestic or foreign) having jurisdiction over the Company or any of the property of the Company.

(f) The providing of Financial Assistance to the Project by the Agency:

(1) Has been an important consideration in the Company's decision to acquire, renovate, construct and reconstruct the Project Facility in the City of Syracuse;

(2) Will not result in the removal of an industrial or manufacturing plant or commercial activity of any Project Facility occupant from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of any user, occupant, or proposed user or occupant of the Project Facility located within the State, except as permitted by the Act; and

(3) Will preserve or increase the overall number of permanent, private sector jobs in the State and the City.

(g) So long as the Agency holds a leasehold interest in the Project Facility, the Project Facility is and will continue to be a “project” (as such quoted term is defined in the Act), and the Company will not take any action (or omit to take any action required by the Company Documents or which the Agency, together with Agency’s counsel, advise the Company in writing should be taken), or allow any action to be taken, which action (or omission) would in any way cause the Project Facility not to constitute a “project” (as such quoted term is defined in the Act).

(h) The Company shall cause all notices as required by law to be given and shall comply or cause compliance with all laws, ordinances, municipal rules, and regulations and requirements of all Governmental Authorities applying to or affecting the construction, reconstruction, equipping and operation of the Project Facility (the applicability of such laws, ordinances, rules, and regulations to be determined both as if the Agency were the owner of the Project Facility and as if the Company, were the owner of the Project Facility), and the Company will defend and save the Agency and its officers, members, agents (other than the Company), and employees harmless from all fines and penalties due to failure to comply therewith.

(i) The Company understands and agrees that it is the preference of the Agency that the Company provide opportunities for the purchase of goods and services from: (i) business enterprises located in the City; (ii) certified minority and or women-owned business enterprises; and (iii) business enterprises that employ residents of the City. The Company further understands and acknowledges that consideration will be given by the Agency to the Company’s efforts to comply, and compliance, with this objective at any time an extension of benefits is sought or involvement by the Agency with the Project is requested by the Company.

(j) The Agency’s undertaking of the Project and the provision of Financial Assistance for the Project will not have a significant impact on the environment within the meaning of SEQRA.

(k) The acquisition, construction, reconstruction, renovation and equipping of the Project Facility will promote employment opportunities and help prevent economic deterioration in the City by the creation and/or preservation of both full and part-time jobs.

(l) The Company has, or will have as of the first date of construction, reconstruction, renovation and equipping, all then necessary permits, licenses, and governmental approvals and consents (collectively, “*Approvals*”) for the construction, reconstruction, renovation and equipping of the Project Facility and has or will have such Approvals for each phase of construction, reconstruction, renovation and equipping of the Project Facility.

(m) The Company will not sublease the whole or any portion of the Project Facility for an unlawful purpose.

(n) No part of the Project Facility will be located outside of the City.

(o) The Company shall perform, or cause to be performed, for and on behalf of the Agency, each and every obligation of the Agency (which is within the control of the Company) under and pursuant to this Agency Lease, the Company Lease and the other Company Documents and shall defend, indemnify, and hold harmless the Agency and its members, officers, agents (other than the Company), servants, and employees from and against every expense, liability, or claim arising out of the failure of the Company to fulfill its obligations under the provisions of this Section 2.2.

(p) The Company agrees that except as is otherwise provided by collective bargaining contracts or agreements applicable to the Project, new employment opportunities created as a result of the Project shall be listed with the New York State Department of Labor Community Services Division, and with the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300) in which the Project is located. The Company further agrees that except as is otherwise provided by collective bargaining contracts or agreements applicable to the Project, it will first consider persons eligible to participate in the Federal Job Training Partnership (P.L. No. 97-300) programs who shall be referred by administrative entities of service delivery areas created pursuant to such act or by the Community Services Division of the Department of Labor for such new employment opportunities.

(q) The Company shall provide to the Agency any and all documentation or information requested by the Agency so that the Agency can comply with all of its reporting requirements under the Act.

(r) As a condition precedent to receiving or benefiting from any State sales and use tax exemption benefits, the Company acknowledges and agrees to all terms and conditions of Section 875(3) of the Act. Section 875(3) of the Act is herein incorporated by reference. As part of such conditions precedent:

(1) The Company shall not take any State or local Sales and Use Tax exemptions (collectively, "**Exemption**") to which it is not entitled, which are in excess of the amount authorized by the Agency in reliance on the Company's Application or which are for property or services not authorized. The amount of such Exemption shall not exceed \$288,000.

(2) The Company shall comply with all material terms and conditions to use property or services in the manner required by the Agency Documents.

(3) The Company shall cooperate with the Agency in the Agency's efforts to recover, recapture, receive or otherwise obtain from the Company any Recapture Amount (as defined in Section 8.12(g) hereof), and shall, upon the Agency's request, promptly pay to the Agency any Recapture Amount, together with any interest or penalties thereon imposed by the Agency or by operation of law or by judicial order or otherwise, as provided in Section 8.12 hereof. The Company acknowledges and agrees that the failure of the Company to promptly pay such Recapture Amount to the Agency will be grounds for the State Commissioner of Taxation and Finance to collect sales and use taxes from the Company under Article 28 of the State Tax Law, together with interest and penalties.

(s) The amount of State and local sales and use tax benefits comprising the Financial Assistance approved by the Agency shall not exceed \$288,000.

ARTICLE III

CONVEYANCE OF LEASEHOLD INTEREST IN PROJECT FACILITY

3.1 AGREEMENT TO CONVEY LEASEHOLD INTEREST TO COMPANY.

The Company has conveyed to the Agency, pursuant to the Company Lease, a leasehold interest in the Land and Facility, as more fully described in **Exhibit "A"** attached hereto, and an interest in the Equipment via a Bill of Sale, as more fully described in **Exhibit "B"** attached hereto. Under this Agency Lease, the Agency will convey, or will cause to be conveyed, to the Company, a subleasehold interest in the Project Facility subject to Permitted Encumbrances, and exclusive of the Agency's Unassigned Rights.

3.2 USE OF PROJECT FACILITY.

Subsequent to the Closing Date, the Company shall be entitled to use the Project Facility in any manner not otherwise prohibited by this Agency Lease, the Company Lease and other Company Documents, provided that such use causes the Project Facility to qualify or continue to qualify as a "project" under the Act.

ARTICLE IV

CONSTRUCTION AND EQUIPPING OF THE PROJECT

4.1 CONSTRUCTION AND EQUIPPING OF THE PROJECT FACILITY.

(a) The Company shall promptly construct, renovate and equip the Project Facility, all in accordance with the Plans and Specifications. Unless a written waiver is first obtained from the Agency, the Company and its Additional Agents (as defined herein), shall utilize local labor, contractors and suppliers for the construction, renovation and equipping of the Project Facility. For purposes of this Agency Lease, and in particular this Section 4.1, the term "**local**" shall mean Onondaga, Oswego, Madison, Cayuga, Cortland and Oneida Counties. Failure to comply with the local labor requirements of this Section 4.1 ("**Local Labor Requirements**") may result in the revocation or recapture of benefits provided/approved to the Project by the Agency. The Company further agrees to complete and supply the Agency, quarterly, starting the first quarter following the date hereof, the "Contract Status Report" the form of which is attached hereto at **Exhibit "D"**.

(b) The Agency hereby confirms the appointment of the Company as its true and lawful agent to perform under the following authority in compliance with the terms, purposes, and intent of this Agency Lease and the other Company Documents, and the Company hereby accepts such appointment:

(1) To reconstruct, renovate and equip the Project Facility and to acquire the Equipment in accordance with the terms hereof;

(2) To make, execute, acknowledge, and deliver any contracts, orders, receipts, writings, and instructions with any other Persons and, in general, to do all things which may be requisite or proper, all for the construction and equipping of the Project Facility with the same powers and with the same validity as the Agency could do if acting in its own behalf, provided that the Agency shall have no liability for the payment of any sums due thereunder;

(3) To pay all fees, costs, and expenses incurred in the reconstruction, renovation and equipping of the Project Facility from funds made available therefor from the funds of the Company; and

(4) To ask, demand, sue for, levy, recover, and receive all such sums of money, debts, dues, and other demands whatsoever which may be due, owing, and payable to the Agency under the terms of any contract, order, receipt, or writing in connection with the reconstruction and equipping of the Project Facility and to enforce the provisions of any contract, agreement, obligation, bond, or other performance security.

(c) The Agency shall enter into, and accept the assignment of, such contracts as the Company may request in order to effectuate the purposes of this Section 4.1, provided, however, that the Agency shall have no liability for the payment of any sums due thereunder.

(d) The Company has given, or will give or cause to be given, all notices and have complied, or will comply or cause compliance with, all laws, ordinances, rules, regulations, and requirements of all Governmental Authorities applying to or affecting the conduct of work on the Project Facility (the applicability of such laws, ordinances, rules, and regulations to be determined both as if the Agency were the owner of the Project Facility and as if the Company were the owner of the Project Facility), and the Company will defend, indemnify, and save the Agency and its officers, members, agents, servants, and employees harmless from all fines and penalties due to failure to comply therewith. All permits and licenses necessary for the prosecution of work on the Project Facility shall be procured promptly by the Company.

(e) The Company understands and agrees that it is the preference of the Agency that the Company provide opportunities for the purchase of goods and services relative to the Project from: (i) business enterprises located in the City; (ii) certified minority and/or women-owned business enterprises; and (iii) business enterprises that employ residents of the City. Consideration will be given by the Agency to the Company's efforts to comply, and compliance with, this objective at any time an extension of benefits is requested, or further involvement by the Agency with the Project is requested by the Company.

4.2 COMPLETION OF PROJECT FACILITY.

(a) The Company will proceed with due diligence to acquire, reconstruct, and equip the Project Facility. Completion of the acquisition, reconstruction, renovation and

equipping of the Project Facility shall be evidenced by a certificate signed by an Authorized Representative of the Company and approved by the Agency, stating:

- (1) The date of such completion;
- (2) That all labor, services, materials, and supplies used therefor and all costs and expenses in connection therewith have been paid;
- (3) That the Company has good and valid title to all Property constituting the Project Facility subject to the interest of the Agency therein and to this Agency Lease, the Company Lease and the Bill of Sale; and
- (4) That the Project Facility is ready for occupancy, use and operation for its intended purposes.

(b) Notwithstanding the foregoing, such certificate may state that (1) it is given without prejudice to any rights of the Company against third parties which exist at the date of such certificate or which may subsequently come into being; (2) it is given only for the purposes of this Section 4.2; and (3) no Person other than the Agency may benefit therefrom.

(c) Such certificate shall be accompanied by (1) copy of a certificate of occupancy, if required, and any and all permissions, licenses, or consents required of Governmental Authorities for the occupancy, operation, and use of the Project Facility for its intended purposes; and (2) Lien releases from the Company's contractor and any subcontractors under a contract with a price in excess of \$100,000.

4.3 COSTS OF COMPLETION PAID BY COMPANY.

(a) The Company agrees to complete the Project and to pay in full all costs of the reconstruction, renovation and equipping of the Project Facility.

(b) No payment by the Company pursuant to this Section 4.3 shall entitle the Company to any diminution or abatement of any amounts payable by the Company under this Agency Lease.

4.4 REMEDIES TO BE PURSUED AGAINST CONTRACTORS, SUBCONTRACTORS, MATERIALMEN, AND THEIR SURETIES.

In the event of a default by any contractor, subcontractor, materialman or Additional Agent (as defined herein) under any contract made by them in connection with construction, reconstruction and equipping of the Project Facility or in the event of a breach of warranty or other liability with respect to any materials, workmanship, or performance guaranty, the Company shall proceed, either separately or in conjunction with others, to exhaust the remedies of the Company against the contractor, subcontractor, materialman or Additional Agent so in default and against each surety for the performance of such contract. The Company may prosecute or defend any action or proceeding or take any other action involving any such contractor, subcontractor, materialman, Additional Agent or surety which the Company deems

reasonably necessary. The Company shall advise the Agency of any actions or proceedings taken hereunder. No such suit shall relieve the Company of any of its obligations under this Agency Lease and the other Company Documents.

4.5 COOPERATION IN EXECUTION OF ADDITIONAL MORTGAGES AND MODIFICATIONS OF MORTGAGES.

The Agency agrees, upon written request of an Authorized Representative of the Company and subject to the provisions of the Act, to use its commercially reasonable efforts to execute and deliver one or more Mortgages and such additional instruments and documents as may be requested by the Company and approved by counsel to the Agency and as may be required in connection with the Company's financing or refinancing for the costs of construction, renovation and equipping of the Project Facility, provided that:

- (a) No Event of Default under this Agency Lease, the Company Lease, the PILOT Agreement or the Mortgage shall have occurred and be continuing; and
- (b) The execution and delivery of such documents by the Agency (i) is permitted by law in effect at the time; and (ii) will serve the public purposes of the Act; and
- (c) The Company will be responsible for and shall pay, from the proceeds thereof or otherwise, the Agency's fee and the costs and expenses of the Agency incidental to such additional financing, refinancing or modification thereof, including without limitation the reasonable attorneys' fees of the Agency; and
- (d) The documents to be signed by the Agency shall contain the provisions set forth in Sections 8.2 and 11.11 hereof, and shall not impose any duties or obligations upon the Agency except as may be acceptable to the Agency.

ARTICLE V

AGREEMENT TO LEASE PROJECT FACILITY; RENTAL PAYMENTS

5.1 AGREEMENT TO LEASE PROJECT FACILITY.

In consideration of the Company's covenant herein to make rental payments, and the other covenants of the Company contained herein, including the covenant to make additional rent and other payments required hereby, the Agency hereby agrees to lease to the Company, and the Company hereby agrees to lease from the Agency, the Project Facility for and during the term provided herein and upon and subject to the terms and conditions herein set forth and subject to Permitted Encumbrances.

The Agency's acceptance of the leasehold interest in and to the Land and Facility pursuant to the Company Lease, and its acquisition of an interest in the Equipment pursuant to the Bill of Sale and the holding of said interests were effected and performed solely at the request of the Company pursuant to the requirements of the Act. The Agency hereby transfers and conveys all of its beneficial and equitable interests, if any, in the Project Facility to the

Company, except for its Unassigned Rights. As a result, the parties hereby acknowledge and agree that subject to the terms and conditions of this Agency Lease, the Company has all of the equitable and beneficial ownership and other interest in the Project Facility (except for the Unassigned Rights), and will have all the equitable and beneficial ownership and other interest in the Project Facility (except for the Unassigned Rights), such that the Company, and not the Agency, shall have an:

(i) unconditional obligation to bear the economic risk of depreciation and diminution in value of the Project Facility due to obsolescence or exhaustion, and shall bear the risk of loss if the Project Facility is destroyed or damaged;

(ii) unconditional obligation to keep the Project Facility in good condition and repair;

(iii) unconditional and exclusive right to the possession of the Project Facility, and shall have sole control of and responsibility for the Project Facility;

(iv) unconditional obligation to maintain insurance coverage on, and such reserves with respect to, the Project Facility as may be required by the Company, the Agency and the Mortgagee with respect to the Project;

(v) unconditional obligation to pay all taxes levied on, or payments in lieu thereof, and assessments made with respect to, the Project Facility;

(vi) subject to the Unassigned Rights, unconditional and exclusive right to receive rental and any other income and other benefits of the Project Facility and from the operation of the Project;

(vii) unconditional obligation to pay for all of the capital investment in the Project Facility;

(viii) unconditional obligation to bear all expenses and burdens of the Project Facility and to pay for all maintenance and operating costs in connection with the Project Facility; and

(ix) unconditional and exclusive right to include all income earned from the operation of the Project Facility and claim all deductions and credits generated with respect to the Project Facility on its annual federal, state and local tax returns.

5.2 TERM OF LEASE; EARLY TERMINATION; SURVIVAL.

(a) The term of this Agency Lease shall commence on the date hereof and continue in full force and effect until June 30, 2025, unless earlier terminated in accordance with the terms of this Agency Lease.

(b) The Company hereby irrevocably designates the Agency as its attorney-in-fact, coupled with an interest, for the purpose of executing, delivering and recording terminations of leases and bill of sale together with any other documents therewith and to take such other and

further actions reasonably necessary to confirm the termination of the Agency's interest in the Project.

(c) The Company shall have the option, at any time during the term of this Agency Lease, to terminate this Agency Lease. In the event that the Company shall exercise its option to terminate this Agency Lease pursuant to this Section 5.2(b), the Company shall file with the Agency a certificate stating the Company's intention to do so pursuant to this Section 5.2(c) and to comply with the requirements set forth in Section 5.2(c) hereof.

(d) As a condition to the effectiveness of the Company's exercise of its right to early termination, the following payments shall be made:

(1) **To the Agency:** an amount certified by the Agency as sufficient to pay all unpaid fees and expenses of the Agency incurred under this Agency Lease, the Company Lease and the PILOT Agreement (including, but not limited to those in connection with the early termination of this Agency Lease); and

(2) **To the Appropriate Person:** an amount sufficient to pay all other fees, expenses or charges, if any, then due and payable under this Agency Lease and the other Agency Documents.

(e) The certificate required to be filed pursuant to Section 5.2(c), setting forth the provision thereof permitting early termination of this Agency Lease shall also specify the date upon which the payments pursuant to subdivision (d) of this Section 5.2 shall be made, which date shall not be less than thirty (30) nor more than sixty (60) days from the date such certificate is filed with the Agency.

(f) Contemporaneously with the termination of this Agency Lease in accordance with Sections 5.1 or 5.2 hereof, the Agency shall transfer, and the Company shall accept, all of the Agency's right, title and interest in the Project Facility, including the Equipment, for a purchase price of One Dollar (\$1.00) plus the payment of all other sums due hereunder. Contemporaneously with the termination of this Agency Lease, the Company Lease and the PILOT Agreement shall terminate.

(g) The Agency shall, upon payment by the Company of the amounts pursuant hereto and to Sections 5.2(d) above and Section 5.3, deliver to the Company all documents furnished to the Agency by the Company, or prepared by the Agency at the sole expense of the Company, and reasonably necessary to evidence termination of the Company Lease and the Agency Lease, including, but not limited to, lease terminations and a bill of sale from the Agency with respect to its interest in the Equipment, without representation or warranty, subject to the following: (1) any Liens to which such Project Facility was subject when conveyed to the Agency, (2) any Liens created at the request of the Company or to the creation of which the Company consented or in the creation of which the Company acquiesced, (3) any Permitted Encumbrances, and (4) any Liens resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Agency Lease.

(h) The obligation of the Agency under this Section 5.2 to convey the Project Facility to the Company will be subject to: (i) there being no Event of Default existing hereunder or under any payment in lieu of tax agreement now or hereafter entered into with respect to all or any portion of the Project Facility or under any other Company Documents, or any other event which would, but for the passage of time or the giving of notice, or both, be such an Event of Default; and (ii) the Company's payment of all expenses, fees and taxes, if any, applicable to or arising from such transfer.

5.3 RENTAL PAYMENTS AND OTHER AMOUNTS PAYABLE.

(a) The Company shall pay basic rental payments for the Project Facility consisting of: (i) to the Agency in an amount sufficient to pay the sums due under the PILOT Agreement at the times and in the manner provided for therein, and an amount sufficient to pay any and all other amounts due hereunder; and (ii) to the Mortgagee, an amount equal to the debt service and other amounts becoming due and payable under the Mortgage and the indebtedness secured thereby on the due date thereof.

(b) The Company shall pay to the Agency, as additional rent, within ten (10) days after the receipt of a demand therefor from the Agency, any annual administrative fees of the Agency, the sum of the reasonable fees, costs and expenses of the Agency and the officers, members, agents, and employees thereof incurred by the reason of the Agency's lease or sublease of the Project Facility or in connection with the carrying out of the Agency's duties and obligations under this Agency Lease, the Company Lease or any of the other Agency Documents and any other fee or expense of the Agency with respect to the Project Facility, or any of the other Agency Documents, the payment of which is not otherwise provided for under this Agency Lease, including, without limitation, reasonable fees and disbursements of Agency counsel, including fees and expenses incurred in connection with the Agency's enforcement of any rights hereunder or incurred after the occurrence and during the continuance of an Event of Default, in connection with any waiver, consent, modification or amendment to this Agency Lease or any other Agency Document that may be requested by the Company, or, in connection with any action by the Agency at the request of or on behalf of the Company hereunder or under any other Agency Document. Any additional rent not received within ten (10) business days after demand shall accrue interest after the expiration of such ten days at a rate of ten percent (10%) per annum or the highest rate permitted by law, whichever is less.

(c) The project fee payable by the Company to the Agency in conjunction with this Project and the Agency's granting of Financial Assistance, and all outstanding counsel fees and costs shall be paid at closing.

(d) The Company agrees to make the above-mentioned payments, without any further notice, in lawful money of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts. In the event that the Company shall fail to make or cause to be made any of the payments required under this Agency Lease, the item or installment not so paid shall continue as an obligation of the Company until such item or installment is paid in full.

5.4 NATURE OF OBLIGATIONS OF COMPANY HEREUNDER.

(a) The obligations of the Company to make the payments required by this Agency Lease and to perform and observe any and all of the other covenants and agreements on its part contained herein are general obligations of the Company and are absolute and unconditional irrespective of any defense or any rights of set-off, recoupment, or counterclaim it may otherwise have against the Agency. The Company agrees that it will not suspend, discontinue, or abate any payment required by, or fail to observe any of its other covenants or agreements contained in this Agency Lease for any cause whatsoever, including, without limiting the generality of the foregoing, failure to complete the construction, reconstruction, renovation and equipping of the Project Facility, any defect in the title, design, operation, merchantability, fitness, or condition of the Project Facility, or any part thereof, or in the suitability of the Project Facility, or any part thereof, for the Company's purposes or needs, or failure of consideration for, destruction of or damage to, or Condemnation of title to, or the use of all or any part of the Project Facility, any change in the tax or other laws of the United States of America or of the State of New York, or any political subdivision thereof, or any failure of the Agency to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or in connection with this Agency Lease or the Company Lease.

(b) Nothing contained in this Section 5.4 shall be construed to release the Agency from the performance of any of the agreements on its part contained in this Agency Lease or the Company Lease, and in the event the Agency should fail to perform any such agreement, the Company may institute such action against the Agency as the Company may deem necessary to compel performance (subject to the provisions of Section 11.11).

ARTICLE VI

MAINTENANCE, MODIFICATIONS, TAXES, AND INSURANCE

6.1 MAINTENANCE AND MODIFICATIONS OF PROJECT FACILITY.

The Company shall:

(a) Keep the Project Facility in good condition and repair and preserve the same against waste, loss, damage and depreciation, ordinary wear and tear excepted;

(b) Make all necessary repairs and replacements to the Project Facility or any part thereof (whether ordinary or extraordinary, structural, or non-structural, foreseen or unforeseen) which is damaged, destroyed, or condemned; and

(c) Operate the Project Facility in a sound and economic manner in general accordance with the Project pro-forma statements Company previously provided to the Agency.

6.2 TAXES, ASSESSMENTS, AND UTILITY CHARGES.

(a) The Company shall pay as the same respectively become due:

(1) Any and all taxes and governmental charges of any kind, whatsoever which may at any time be lawfully assessed or levied against or with respect to the Project Facility;

(2) All utility and other charges, including “service charges,” incurred or imposed for the operation, maintenance, use, occupancy, upkeep, and improvement of the Project Facility, the non-payment of which would create, or entitle the obligee to impose, a Lien on the Project Facility;

(3) All assessments and charges of any kind whatsoever lawfully made by any Governmental Authority for public improvements; and

(4) Any and all payments of taxes, if applicable, or payments in lieu of taxes required to be made to the Agency under the terms of the PILOT Agreement or any other agreement with respect thereto.

(b) Subject to the terms of the PILOT Agreement, the Company may in good faith actively contest any such taxes, assessments, and other charges, provided that (1) the Company shall have first notified the Agency of such contest; (2) no Event of Default under this Agency Lease or any of the other Company Documents shall have occurred and be continuing; and (3) the Company shall have set aside adequate reserves for any such taxes, assessments, and other charges. If the Company demonstrates to the satisfaction of the Agency and certifies to the Agency by delivery of a written certificate, that the non-payment of any such items will not endanger any part of the Project Facility or subject the Project Facility, or any part thereof, to loss or forfeiture, the Company may permit the taxes, assessments, and other charges so contested to remain unpaid during the period of such contest and any appeal therefrom. Otherwise, such taxes, assessments, or charges shall be paid promptly by the Company or secured by the Company’s posting a bond in form and substance satisfactory to the Agency.

6.3 INSURANCE REQUIRED.

During the term of this Agency Lease, the Company shall maintain or cause to be maintained insurance with respect to the Project Facility against such risks and for such amounts as are customarily insured against by businesses of like size and type and as required of the Agency, paying (as the same becomes due and payable) all premiums with respect thereto, including:

(a) Insurance against loss or damage by fire, lightning, and other casualties customarily insured against (with a uniform standard extended coverage endorsement), such insurance to be in an amount not less than the full replacement value of the completed Project Facility, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the Company.

(b) Workers’ compensation insurance, disability benefits’ insurance, and each other form of insurance which the Company is required by law to provide covering loss resulting

from injury, sickness, disability, or death of employees of the Company who are located at or assigned to the Project Facility;

(c) A policy of commercial general liability insurance with a \$1,000,000 combined single limit for bodily injury including death and property damage, including but not limited to, contractual liability under this Agency Lease and personal injury, with blanket excess liability coverage in an amount not less than \$2,000,000, covering the Project Facility and the Company's and the Agency's use or occupancy thereof against all claims on account of bodily injury or death and property damage occurring upon, in or about the Project Facility or in connection with the ownership, maintenance, use and/or occupancy of the Project Facility and all appurtenant areas.

6.4 ADDITIONAL PROVISIONS RESPECTING INSURANCE.

All insurance required by Section 6.3 shall be with insurance companies of recognized financial standing selected by the Company and licensed to write such insurance in the State of New York. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other Persons engaged in businesses similar in size, character, and other respects to those in which the Company are engaged. All policies evidencing such insurance except the Workers' Compensation policy shall name the Company as insured and the Agency as an additional insured, as its interests may appear, and shall provide for at least thirty (30) days' prior written notice to the Agency of cancellation, reduction in policy limits, or material change in coverage thereof. Certificates satisfactory in form and substance evidencing all insurance required hereby shall be delivered to the Agency before the Closing Date. The Company shall deliver or cause to be delivered to the Agency on or before the first business day of each December thereafter a certificate dated not earlier than the immediately preceding December 1 reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance in the amounts and of the types required by Sections 6.3 and 6.4. The Company shall furnish to the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agency Lease each year throughout the term of this Agency Lease.

All premiums with respect to the insurance required by Section 6.3 shall be paid by the Company, provided, however, that, if the premiums are not timely paid, the Agency may pay such premiums and the Company shall pay immediately upon demand all sums so expended by the Agency, together with interest at a rate of ten percent (10%) per annum or the highest rate permitted by law, whichever is less.

6.5 APPLICATION OF NET PROCEEDS OF INSURANCE.

The Net Proceeds of the insurance carried pursuant to the provisions of Section 6.3 shall be applied as follows:

(a) The Net Proceeds of the insurance required by subsection 6.3(a) shall be paid and applied as provided in Section 7.1 hereof; and

(b) The Net Proceeds of the insurance required by subsections 6.3(b) and 6.3(c) shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

6.6 PAYMENTS IN LIEU OF REAL ESTATE TAXES..

The Company, the City and the Agency have entered into a PILOT Agreement with respect to payments in lieu of real estate taxes.

ARTICLE VII

DAMAGE, DESTRUCTION, AND CONDEMNATION

7.1 DAMAGE OR DESTRUCTION.

(a) If the Mortgage shall be in effect or the Mortgagee shall have any interest in the Project Facility arising under or related to the Mortgage, whether by foreclosure or otherwise and the Project Facility shall be damaged or destroyed, in whole or in part, then insurance proceeds shall be paid in accordance with the relevant provisions of the Mortgage regarding the distribution of such insurance proceeds, provided that there shall be no abatement or reduction in amounts payable to the Agency hereunder. If the Mortgage shall not be in effect and the Mortgagee shall have no interest in the Project Facility and the Project Facility shall be damaged or destroyed, in whole or in part:

(1) There shall be no abatement or reduction in the amounts payable by the Company under this Agency Lease or otherwise (whether or not the Project Facility is replaced, repaired, rebuilt, or restored); and

(2) The Company shall promptly give notice thereof to the Agency;
and

(3) Except as otherwise provided in subsections 7.1(b) and 7.1(c) hereof, upon receipt of the insurance proceeds, the Company shall promptly replace, repair, rebuild, or restore the Project Facility to substantially the same condition as existed prior to such damage or destruction, with such changes, alterations, and modifications as may be desired by the Company and consented to in writing by the Agency, provided that such changes, alterations, or modifications do not change the nature of the Project Facility, such that it does not constitute a "project" (as such quoted term is defined in the Act); and in the event such Net Proceeds are not sufficient to pay in full the costs of such replacement, repair, rebuilding, or restoration, the Company shall nonetheless complete such work and shall pay from its own moneys that portion of the costs thereof in excess of such Net Proceeds.

(b) If the Mortgage shall not be in effect and the Mortgagee shall have no interest in the Project Facility, then notwithstanding anything to the contrary contained in subsection 7.1(a), the Company shall not be obligated to replace, repair, rebuild, or restore the Project Facility, and the Net Proceeds of any insurance settlement shall not be applied as

provided in subsection 7.1(a) if the Company shall notify the Agency that, in the Company's sole judgment, the Company does not deem it practical or desirable to replace, repair, rebuild, or restore the Project Facility. In such event, the lesser of: (1) the total amount of the Net Proceeds collected under any and all policies of insurance covering the damage to or destruction of the Project Facility, or (2) any other sums payable to the Agency pursuant to this Agency Lease and the other Agency and Company Documents, shall be applied to the repayment of all amounts due to the Agency under this Agency Lease, the Company Lease, the PILOT Agreement and other Agency Documents. If the Net Proceeds collected under any and all policies of insurance are less than the amount necessary to repay any and all amounts payable to the Agency, the Company shall pay the difference between such amounts and the Net Proceeds of all such insurance settlements so that any and all amounts payable under this Agency Lease, the Company Lease, the PILOT Agreement and the other Agency Documents to the Agency shall be paid in full. If all amounts due under this Agency Lease, the Mortgage, the Company Lease, the PILOT Agreement and the other Agency Documents are paid in full, all such Net Proceeds or the balance thereof shall be paid to the Company for its purposes.

(c) The Company and the Mortgagee may adjust all claims under any policies of insurance required by subsections 6.3(a) and 6.3(c) hereof with the prior written consent of the Agency, which consent shall not be unreasonably withheld.

7.2 CONDEMNATION.

(a) If the Mortgage shall be in effect or the Mortgagee shall have any interest in the Project Facility arising under or related to the Mortgage, whether by foreclosure or otherwise and title to, or the use of, all, substantially all or less than substantially all of the Project Facility shall be taken by Condemnation, then Condemnation proceeds shall be paid in accordance with the relevant provisions of the Mortgage regarding the distribution of such Condemnation proceeds, provided that there shall be no abatement or reduction in amounts payable to the Agency hereunder. If the Mortgage shall not be in effect and the Mortgagee shall have no interest in the Project Facility and if title to, or the use of, less than substantially all of the Project Facility shall be taken by Condemnation:

(1) There shall be no abatement or reduction in the amounts payable by the Company under this Agency Lease or otherwise (whether or not the Project Facility is restored); and

(2) The Company shall promptly give notice thereof to the Agency;
and

(3) Except as otherwise provided in subsections 7.2(b) and 7.2(c) hereof, upon receipt of the Condemnation proceeds, the Company shall promptly restore the Project Facility (excluding any part of the Project Facility taken by Condemnation) to substantially the condition and value as an operating entity as existed prior to such Condemnation; and the Company shall nonetheless complete such restoration and shall pay from its own moneys that portion of the costs thereof in excess of such Net Proceeds.

(b) If the Mortgage shall not be in effect and the Mortgagee shall have no interest in the Project Facility and if title to, or the use of, less than substantially all of the Project Facility shall be taken by Condemnation, then notwithstanding anything to the contrary contained in subsection 7.2(a), the Company shall not be obligated to restore the Project Facility, and the Net Proceeds of any Condemnation award shall not be applied as provided in subsection 7.2(a) if the Company shall notify the Agency that, in the Company's sole judgment, the Company does not deem it practical or desirable to restore the Project Facility. In such event, the lesser of (1) the Net Proceeds of any Condemnation award, or (2) the amount necessary to pay the Agency pursuant to this Agency Lease, the Company Lease, the PILOT Agreement and the other Agency Documents, shall be applied to payment of all amounts due to the Agency under this Agency Lease, the Company Lease, the PILOT Agreement and other Agency Documents. If the Net Proceeds of any Condemnation award are less than the amount necessary to pay any and all amounts payable to the Agency, the Company shall pay the difference between such amounts and the Net Proceeds of such Condemnation award so that any and all amounts payable under this Agency Lease, the Company Lease, the PILOT Agreement and other Agency Documents to the Agency shall be paid in full. If all amounts due under this Agency Lease, the Company Lease, the PILOT Agreement, the Mortgage and the other Agency Documents have been paid in full, all such Net Proceeds or the balance thereof shall be paid to the Company for its purposes.

(c) The Company and the Mortgagee with the prior written consent of the Agency (which consent shall not be unreasonably withheld), shall have sole control of any Condemnation proceeding with respect to the Project Facility, or any part thereof, and may negotiate the settlement of any such proceeding.

7.3 ADDITIONS TO PROJECT FACILITY.

All replacements, repairs, rebuilding, or restoration made pursuant to Sections 7.1 or 7.2 hereof, whether or not requiring the expenditure of the Company's own moneys, shall automatically become part of the Project Facility as if the same were specifically described herein.

ARTICLE VIII

SPECIAL COVENANTS

8.1 NO WARRANTY OF CONDITION OR SUITABILITY BY THE AGENCY; ACCEPTANCE "AS IS."

THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY, OR FITNESS OF THE PROJECT FACILITY, OR ANY PART THEREOF, OR AS TO THE SUITABILITY OF THE PROJECT FACILITY OR ANY PART THEREOF FOR THE COMPANY'S PURPOSES OR NEEDS. NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY IS MADE. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE

AGENCY SHALL NOT HAVE ANY RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

8.2 HOLD HARMLESS PROVISIONS.

(a) The Company hereby releases the Agency and its members, officers, agents and employees from, agrees that the Agency and its members, officers, agents and employees shall not be liable for, and agrees to indemnify, defend, and hold the Agency and its members, officers, agents and employees harmless from and against any and all claims arising as a result of the Agency's undertaking the Project, including, but not limited to:

(1) Liability for loss or damage to the Project Facility or bodily injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Project Facility, or arising by reason of or in connection with the occupation or the use thereof, or the presence on, in, or about the Project Facility;

(2) Liability arising from or expense incurred by the Agency's acquisition of a leasehold interest in the Project Facility and the subleasing of the Project Facility, including, without limiting the generality of the foregoing, all liabilities or claims arising as a result of the Agency's obligations under this Agency Lease, the Company Lease, the Mortgage or any other documents executed by the Agency at the direction of the Company in conjunction with the Project Facility;

(3) All claims arising from the exercise by the Company, and or its Additional Agents (as defined herein) of the authority conferred upon it and performance of the obligations assumed under Section 4.1 hereof;

(4) Any and all claims arising from the non-disclosure of information, if any, requested by the Company in accordance with Section 11.13 hereof;

(5) All causes of action and attorneys' fees and other expenses incurred in connection with any suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities, or expenses of the Agency are not incurred or do not result from the intentional wrongdoing of the Agency or any of its members, officers, agents or employees.

To the fullest extent permitted by law, the foregoing indemnities shall apply notwithstanding the fault or negligence (other than gross negligence or willful misconduct) on the part of the Agency or any of its officers, members, agents, servants or employees and irrespective of any breach of statutory obligation or any rule of comparative or apportioned liability.

(b) In the event of any claim against the Agency or its members, officers, agents, or employees by any employee of the Company, or any contractor or Additional Agent of the Company, or anyone directly or indirectly employed by any of them, or any one for whose acts any of them may be liable, the obligations of the Company hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable

by or for the Company or such contractor under workers' compensation laws, disability benefit laws, or other employee benefit laws.

(c) To effectuate the provisions of this Section 8.2, the Company agrees to provide for and insure, in the liability policies required by Section 6.3, its liabilities assumed pursuant to this Section 8.2.

(d) Notwithstanding any other provisions of this Agency Lease, the obligations of the Company pursuant to this Section 8.2 shall remain in full force and effect after the termination of this Agency Lease and the Company Lease until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action, or prosecution relating to the matters herein described may be brought, and the payment in full or the satisfaction of such claim, cause of action, or prosecution, and the payment of all expenses and charges incurred by the Agency, or its officers, members, agents or employees relating thereto.

(e) For purposes of this Section 8.2 and Section 11.11 hereof, the Company shall not be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

8.3 RIGHT OF ACCESS TO PROJECT FACILITY.

During the term of this Agency Lease, the Company agrees that the Agency and its duly authorized agents shall have the right to enter upon and to examine and inspect the Project Facility upon reasonable notice to the Company and with the least disturbance of Project Facility tenants as reasonably possible.

8.4 MAINTENANCE OF EXISTENCE.

During the term of this Agency Lease, the Company will maintain its existence and will not dissolve or otherwise dispose of all or substantially all of its assets.

8.5 AGREEMENT TO PROVIDE INFORMATION.

During the term of this Agency Lease, and no less frequently than annually, the Company agrees, whenever reasonably requested by the Agency or the Agency's auditor, to provide and certify, or cause to be certified, such information concerning the Project and/or the Company, its finances, and for itself and each of its Additional Agents, information regarding job creation, Local Labor Requirements, exemptions from State and local sales and use tax, real property and mortgage recording taxes and other topics as the Agency from time to time reasonably considers necessary or appropriate including, but not limited to those reports, in substantially the form as set forth in **Exhibit "E"** attached hereto, and such other information necessary as to enable the Agency to monitor and/or make any reports required by law or governmental regulation, including but not limited to §875 of the Act. Notwithstanding anything in this Section 8.5 to the contrary, the Company shall provide the Contract Status Report in accordance with Section 4.1 hereof.

8.6 BOOKS OF RECORD AND ACCOUNT; FINANCIAL STATEMENTS.

During the term of this Agency Lease, the Company agrees to maintain proper accounts, records, and books, in which full and correct entries shall be made in accordance with generally accepted accounting principles, of all business and affairs of the Company.

8.7 COMPLIANCE WITH ORDERS, ORDINANCES, ETC.

(a) The Company agrees that it will, during any period in which the amounts due under this Agency Lease remain unpaid, promptly comply with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions, and requirements of all Governmental Authorities, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter affect the Company's obligations hereunder or be applicable to the Project Facility, or any part thereof, or to any use, manner of use, or condition of the Project Facility, or any part thereof, the applicability of the same to be determined both as if the Agency were the owner of the Project Facility and as if the Company were the owner of the Project Facility.

(b) Notwithstanding the provisions of subsection 8.7(a), the Company may, in good faith, actively contest the validity or the applicability of any requirement of the nature referred to in said subsection 8.7(a), provided that the Company shall have first notified the Agency of such contest, no Event of Default shall be continuing under this Agency Lease, or any of the other Company Documents; and such contest and failure to comply as such requirement shall not subject the Project Facility to loss or forfeiture. In such event, the Company may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom unless the Agency or its members, officers, agents, or employees may be liable for prosecution for failure to comply therewith, in which event the Company shall promptly take such action with respect thereto as shall be satisfactory to the Agency.

8.8 DISCHARGE OF LIENS AND ENCUMBRANCES.

During the term of this Agency Lease, the Company hereby covenants that, except for Permitted Encumbrances, the Company agrees not to create, or suffer to be created, any Lien, except for Permitted Encumbrances, on the Project Facility, or any part thereof. The Company shall promptly notify the Agency of any Permitted Encumbrances created, or suffered to be created, on the Project Facility.

8.9 PERFORMANCE BY AGENCY OF COMPANY'S OBLIGATIONS.

Should the Company fail to make any payment or to do any act as herein provided, the Agency may, but need not, upon ten (10) days' prior written notice to or demand on the Company and without releasing the Company from any obligation herein, make or do the same, including, without limitation, appearing in and defending any action purporting to affect the rights or powers of the Company, or the Agency and paying all expenses, including, without limitation, reasonable attorneys' fees; and the Company shall pay immediately upon demand all

sums so expended by the Agency under the authority hereof, together with the interest thereon at a rate of ten percent (10%) per annum or the highest rate permitted by law, whichever is greater.

8.10 DEPRECIATION DEDUCTIONS AND TAX CREDITS .

The parties agree that as between them, the Company shall be entitled to all depreciation deductions and accelerated cost recovery system deductions with respect to any portion of the Project Facility pursuant to Sections 167 and 168 of the Code and to any investment credit pursuant to Section 38 of the Code with respect to any portion of the Project Facility which constitutes "Section 38 Property" and to all other State and/or federal income tax deductions and credits which may be available with respect to the Project Facility.

8.11 EMPLOYMENT OPPORTUNITIES.

The Company shall insure that all employees and applicants for employment with regard to the Project are afforded equal employment opportunities without discrimination.

8.12 SALES AND USE TAX EXEMPTION.

(a) Pursuant to Section 874 of the Act, the parties understand that the Agency is exempt from certain State and local sales use taxes imposed by the State and local governments in the State, and that the Project may be exempted from those taxes due to the involvement of the Agency in the Project. The Agency makes no representations or warranties that any property is exempt from the payment of State or local sales or use taxes. Any exemption from the payment of State or local sales or use taxes resulting from the involvement of the Agency with the Project shall be subject to Section 875 of the Act and shall be limited to purchases of services and tangible personal property conveyed to the Agency or utilized by the Agency or by the Company as agent of the Agency as a part of the Project prior to the Completion Date, or incorporated within the Project Facility prior to the Completion Date. No operating expenses of the Project Facility, and no other purchases of services or property shall be subject to an exemption from the payment of State sales or use tax. It is the intention of the parties hereto that the Company will receive a State and local sales and use tax exemption with respect to the Project, said sales tax exemption to be evidenced by a letter to be issued by the Agency on the date of the execution of this Agency Lease. The Company acknowledges that as an agent of the Agency, it must complete and provide to each vendor Form ST-123 for purchases. The failure to furnish a completed Form ST-123 (IDA Agent or Project Operator Exempt Purchase Certificate) with each purchase will result in loss of the exemption for that purchase.

(b) The Company may appoint a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, "***Additional Agents***") in furtherance of the completion of the Project provided that the Company first: (i) cause the each Additional Agent to execute and deliver a sub-agent agreement, in the form attached hereto at **Exhibit "F"**, and provide a fully executed copy to the Agency; and (ii) and submit a completed Form ST-60 to the Agency for execution and filing with the New York State Department of Taxation and Finance.

(c) The Company acknowledges that contractors and subcontractors who have not been appointed as agents or subagents of the Agency should use Form ST 120.1 for construction material purchases relative to the Project Facility. However, the Company acknowledges and agrees that a contractor or subcontractor must be appointed as an agent of the Agency in order to avail itself of the Agency sales and use tax exemption for purchases or rentals of construction equipment, tools and supplies that do not become part of the finished Project.

(d) Pursuant to Section 874(8) of the Act, the Company agrees to annually file and cause any Additional Agent or other operator of the Project Facility to file annually, with the New York State Department of Taxation and Finance, and provide the Agency with a copy of same, on a form and in such manner as is prescribed by the New York State Commissioner of Taxation and Finance (the “*Annual Sales Tax Report*”), a statement of the value of all sales and use tax exemptions claimed by the Company and all contractors, subcontractors, consultants and other Additional Agents of the Company under the authority granted to the Company pursuant to Section 4.1(b) of this Agency Lease. Pursuant to Section 874(8) of the Act, the penalty for failure to file the Annual Sales Tax Report shall be removal of authority to act as agent of the Agency. Therefore, if the Company shall fail to comply with the requirements of this subsection (d), irrespective of any notice and cure period afforded, the Company shall immediately cease to be the agent of the Agency in connection with the Project. The Company is responsible for obtaining from the New York State Department of Taxation and Finance the current version of such Annual Sales Tax Report.

(e) The Company agrees to furnish to the Agency a copy of each such Annual Sales Tax Report submitted to the New York State Department of Taxation and Finance by the Company pursuant to Section 874(8) of the Act for itself and any Additional Agent.

(f) Pursuant to Section 874(9) of the Act, the Agency agrees to file within thirty (30) days of the Closing Date with the New York State Department of Taxation and Finance, on a form and in such manner as is prescribed by the New York State Commissioner of Taxation and Finance (the “*Thirty-Day Sales Tax Report*”), a statement identifying the Company, or any Additional Agent appointed in accordance with the terms herein, as agent of the Agency, setting forth the taxpayer identification number of the Company, giving a brief description of the goods and/or services intended to be exempted from sales taxes as a result of - such appointment as agent, indicating the estimated value of the goods and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease.

(g) Pursuant to Section 875(3) of the Act, and in conjunction with Agency policy, the Agency shall recover, recapture, receive or otherwise obtain from the Company the portion of the Financial Assistance (the “*Recapture Amount*”) consisting of: (1) (a) that portion of the State and local Sales and Use Tax exemption to which the Company or the Project Facility was not entitled, which is in excess of the amount of the State and local Sales and Use tax exemption authorized by the Agency or which is for property or services not authorized by the Agency; or (b) the full amount of such State and local Sales and Use Tax exemption, if the Company fails to comply with a material term or condition regarding the use of the property or services as provided in the Agency Documents; (2) together with any interest or penalties

thereon imposed by the Agency or by operation of law or by judicial order or otherwise. The failure of the Company to promptly pay such Recapture Amount to the Agency will be grounds for the State Commissioner of Taxation and Finance (the "**Commissioner**") to collect the State Sales and Use taxes from the Company under Article 28 of the State Tax Law, together with interest and penalties and for the Agency to take, or cause to be taken, any and all action necessary to collect the local portion of the sales tax comprising the Recapture Amount.

8.13. IDENTIFICATION OF THE EQUIPMENT.

All Equipment which is or may become part of the Project Facility pursuant to the provisions of this Lease Agreement shall be property identified by the Company by such appropriate records, including computerized records, as may be approved by the Agency.

ARTICLE IX

ASSIGNMENTS; TRANSFERS; MERGER OF AGENCY

9.1 ASSIGNMENT OF AGENCY LEASE.

This Agency Lease may not be assigned by the Company, in whole or in part, nor all or any part of the Project Facility subleased, nor any part of the Project Facility sold, leased, transferred, conveyed or otherwise disposed of without the prior written consent of the Agency, which consent shall be in the Agency's sole and absolute discretion; provided however, that the Company may enter into leases for individual rental units that are part of the Project Facility without the consent of the Agency. Any assignment or sublease of this Agency Lease shall not effect a release of the Company from its obligations hereunder or under the PILOT Agreement.

9.2 TRANSFERS OF INTERESTS .

Company shall not assign or otherwise transfer or allow an assignment or transfer, of a controlling interest in the Company, whether by operation of law or otherwise (including, without limitation, by way of a merger, consolidation or a change of control whereby the current existing equity holders of the Company, as of the date of the application to the Agency, would own, in the aggregate, less than a majority of the total combined voting power of all classes of equity interest of the Company or any surviving entity), without the prior written consent of Agency, which consent shall be in the Agency's sole and absolute discretion..

9.3 MERGER OF AGENCY.

(a) Nothing contained in this Agency Lease shall prevent the consolidation of the Agency with, or merger of the Agency into, or assignment by the Agency of its rights and interests hereunder to any other body corporate and politic and public instrumentality of the State of New York, or political subdivision thereof, which has the legal authority to perform the obligations of the Agency hereunder, provided that upon any such consolidation, merger, or assignment, the due and punctual performance and observance of all the agreements and conditions of this Agency Lease to be kept and performed by the Agency shall be expressly

assumed in writing by the public instrumentality or political subdivision resulting from such consolidation or surviving such merger or to which the Agency's rights and interests hereunder shall be assigned.

(b) Promptly following the effective date of any such consolidation, merger, or assignment, the Agency shall give notice thereof in reasonable detail to the Company. The Agency shall promptly furnish to the Company such additional information with respect to any such consolidation, merger, or assignment as the Company reasonably may request.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

10.1 EVENTS OF DEFAULT DEFINED.

The following shall be "Events of Default" under this Agency Lease, and the terms "Event of Default" or "Default" shall mean, whenever they are used in this Agency Lease, any one or more of the following events:

(a) A default by the Company in the due and punctual payment of the amounts specified to be paid pursuant to subsection 5.3 or 8.12(e); or

(b) Failure by the Company to maintain the insurance required by Section 6.3;
or

(c) A default in the performance or the observance of any other of the covenants, conditions, or agreements on the part of the Company in this Agency Lease and the continuance thereof for a period of thirty (30) days after written notice is given by the Agency or, if such covenant, condition, or agreement is capable of cure but cannot reasonably be cured within such thirty-day period, the failure of the Company to commence to cure within such thirty-day period and to prosecute the same with due diligence and cure the same within an additional thirty (30) days; or

(d) A transfer in contravention of Section 9.1 hereof;

(e) The occurrence of an "Event of Default" under the Mortgage, the PILOT Agreement, the Company Lease or any of the other Company Documents which is not timely cured as provided therein; or

(f) The Company shall generally not pay its debts as such debts become due or is unable to pay its debts as they become due.

(g) The Company shall conceal, remove, or permit to be concealed or removed any part of its Property with intent to hinder, delay, or defraud its creditors, or any one of them, or shall make or suffer a transfer of any of its Property which is fraudulent under any bankruptcy, fraudulent conveyance, or similar law, or shall make any transfer of its Property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid, or shall suffer or permit, while insolvent, any creditor to obtain a Lien upon any of its

Property through legal proceedings or distraint which is not vacated within sixty (60) days from the date thereof; or

(h) By order of a court of competent jurisdiction, a trustee, receiver, or liquidator of the Project Facility, or any part thereof, or of the Company shall be appointed and such order shall not be discharged or dismissed within sixty (60) days after such appointment; or

(i) The filing by the Company of a voluntary petition under Title 11 of the United States Code or any other federal or state bankruptcy statute; the failure by the Company within sixty (60) days to lift any execution, garnishment, or attachment of such consequence as will impair the Company's ability to carry out its obligations hereunder; the commencement of a case under Title 11 of the United States Code against the Company as the debtor, or commencement under any other federal or state bankruptcy statute of a case, action, or proceeding against the Company, and continuation of such case, action, or proceeding without dismissal for a period of sixty (60) days; the entry of an order for relief by a court of competent jurisdiction under Title 11 of the United States Code or any other federal or state bankruptcy statute with respect to the debts of the Company; or in connection with any insolvency or bankruptcy case, action, or proceeding, appointment by final order, judgment, or decree of a court of competent jurisdiction of a receiver or trustee of the whole or a substantial portion of the Property of the Company unless such order, judgment, or decree is vacated, dismissed, or dissolved within sixty (60) days of its issuance.

(j) The imposition of a Lien on the Project Facility other than a Permitted Encumbrance.

10.2 REMEDIES ON DEFAULT.

(a) Whenever any Event of Default shall have occurred and be continuing, the Agency may, to the extent permitted by law, take any one or more of the following remedial steps:

- 1) Terminate this Agency Lease;
- 2) Terminate the Company Lease;
- 3) Terminate the PILOT Agreement; or
- 4) Take any other action at law or in equity, which may appear necessary or desirable to collect any amounts then due, or thereafter to become due, hereunder or under the Company Lease or the PILOT Agreement and to enforce the Agency's right to terminate this Agency Lease, the Company Lease and the PILOT Agreement.

(b) No action taken pursuant to this Section 10.2 shall relieve the Company from its obligations to make all payments required by Sections 5.3(b) and 8.2 hereof.

10.3 REMEDIES CUMULATIVE.

No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Agency Lease, the Company Lease, the other Company Documents or the PILOT Agreement or now or hereafter existing at law or in equity to collect any amounts then due, or thereafter to become due, hereunder and thereunder and to enforce the Agency's right to terminate this Agency Lease, the PILOT Agreement and the Company Lease. No delay or omission to exercise any right or power accruing upon any Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Agency to exercise any remedy reserved to it in this Article 10, it shall not be necessary to give any notice, other than such notice as may be herein expressly required in this Agency Lease.

10.4 AGREEMENT TO PAY ATTORNEYS' FEES AND EXPENSES.

In the event the Company should Default under any of the provisions of this Agency Lease, or a dispute arises hereunder, and the Agency should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Company herein contained, the Company shall, on demand therefor, pay to the Agency the reasonable fees of such attorneys and such other expenses so incurred.

10.5 NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.

In the event any agreement contained herein should be breached by either party and thereafter such breach be waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE XI

MISCELLANEOUS

11.1 NOTICES.

All notices, certificates, and other communications hereunder shall be in writing, shall be sufficiently given, and shall be deemed given when (a) sent to the applicable address stated below by registered or certified mail, return receipt requested, and actually received by the intended recipient or by overnight courier or such other means as shall provide the sender with documentary evidence of such delivery, or (b) delivery is refused by the addressee as evidenced by the affidavit of the Person who attempted to effect such delivery. The addresses to which notices, certificates, and other communications hereunder shall be delivered are as follows:

(a) If to the Agency, to:

City of Syracuse Industrial Development Agency
333 West Washington Street, Suite 130
Syracuse, New York 13202
Attn: Chairman

With a copy to:

Corporation Counsel
City of Syracuse
233 East Washington Street
Syracuse, New York 13202

(b) If to the Company, to:

706 North Clinton, LLC
c/o Emhoff Associates, LLC
126 North Salina Street
Syracuse, New York 13202
Attn: Joshua Podkaminer, Manager

With a copy to:

Mark Arbon, Esq.
Sarofeen & Arbon, PLLC
One Lincoln Center
110 West Fayette Street, Suite 1110
Syracuse, New York 13202

The Agency and the Company, may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, and other communications shall be sent.

11.2 BINDING EFFECT.

This Agency Lease shall inure to the benefit of and shall be binding upon the Agency and the Company and, as permitted by this Agency Lease, upon their respective heirs, successors and assigns.

11.3 SEVERABILITY.

If any one or more of the covenants or agreements provided herein on the part of the Agency or the Company to be performed shall for any reason be held, or shall in fact be, inoperative, unenforceable, or contrary to law in any particular circumstance; such circumstance shall not render the provision in question inoperative or unenforceable in any other circumstance. Further, if any one or more of the sentences, clauses, paragraphs, or sections herein is contrary to

law, then such covenant(s) or agreement(s) shall be deemed severable of remaining covenants and agreements hereof and shall in no way affect the validity of the other provisions of this Agency Lease.

11.4 AMENDMENTS, CHANGES, AND MODIFICATIONS.

This Agency Lease may not be amended, changed, modified, altered, or terminated except by an instrument in writing signed by the parties hereto.

11.5 EXECUTION OF COUNTERPARTS.

This Agency Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

11.6 APPLICABLE LAW.

This Agency Lease shall be governed exclusively by the applicable laws of the State of New York.

11.7 WAIVER OF TRIAL BY JURY.

THE COMPANY AND THE AGENCY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY DISPUTE ARISING UNDER THIS AGENCY LEASE, AND THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGENCY LEASE.

11.8 SUBORDINATION.

This Agency Lease shall be subject and subordinate to the Company Lease and the Mortgage in all respects.

11.9 SURVIVAL OF OBLIGATIONS.

(a) The obligations of the Company to repay, defend and/or provide the indemnity required by Section 8.2 and 8.12 hereof shall survive the termination of this Agency Lease and all such payments after such termination shall be made upon demand of the party to whom such payment is due.

(b) The obligations of the Company to repay, defend and/or provide the indemnity required by Section 8.2 and 8.12 shall survive the termination of this Agency Lease until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action, or prosecution may be brought, and the payment in full or the satisfaction of such claim, cause of action, or prosecution, and the payment of all expenses and charges incurred by the Agency or its officers, members, agents (other than the Company) or employees relating thereto.

(c) The obligations of the Company required by Sections 2.2, 8.12 and 11.13 hereof shall survive the termination of this Agency Lease.

11.10 TABLE OF CONTENTS AND SECTION HEADINGS NOT CONTROLLING.

The Table of Contents and the Section headings in this Agency Lease have been prepared for convenience of reference only and shall not control, affect the meaning of, or be taken as an interpretation of any provision of this Agency Lease.

11.11 NO RECOURSE; SPECIAL OBLIGATION.

The obligations and agreements of the Agency contained herein and in the other Agency Documents and in any other instrument or document executed in connection herewith or therewith, and any instrument or document supplemental hereto or thereto, shall be deemed the obligations and agreements of the Agency and not of any member, officer, agent or employee of the Agency in his individual capacity; and the members, officers, agents and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The obligations and agreements of the Agency contained herein or therein shall not constitute or give rise to an obligation of the State New York or of the City of Syracuse, and neither the State of New York nor the City of Syracuse shall be liable hereon or thereon. Further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, payable solely from the revenues of the Agency derived, and to be derived from, the lease, sale, or other disposition of the Project Facility, other than revenues derived from or constituting Unassigned Rights. No order or decree of specific performance with respect to any of the obligations of the Agency hereunder or thereunder shall be sought or enforced against the Agency unless:

(a) The party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and thirty (30) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or if compliance therewith would reasonably be expected to take longer than thirty (30) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period; and

(b) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses; and

(c) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents or employees shall be subject to potential liability, the party seeking such order or decree shall (1) agree to indemnify and hold harmless the Agency and its members, officers, agents and employees against any liability incurred as a result of its compliance with such demand; and (2) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents and employees against all liability expected to be incurred as a result of compliance with such request.

(d) For purposes of this Section 11.11, neither the Company nor any Additional Agent, shall be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

Any failure to provide notice, indemnity, or security to the Agency pursuant to this Section 11.11 shall not alter the full force and effect of any Event of Default under this Agency Lease.

11.12 OBLIGATION TO SELL AND PURCHASE THE EQUIPMENT.

(a) Contemporaneously with the termination of this Agency Lease in accordance with Section 5.2 hereof, the Agency shall sell and the Company shall purchase all the Agency's right, title and interest in and to all of the Equipment for a purchase price equal to the sum of One Dollar (\$1.00), plus payment of all sums due and payable to the Agency or any other Person pursuant to this Agency Lease and the other Company Documents. The Company hereby irrevocably designates the Agency as its attorney-in-fact, coupled with an interest, for the purpose of executing and delivering the bill of sale together with any other documents therewith and to take such other and further actions reasonably necessary to confirm the termination of the Agency's interest in the Equipment.

(b) The sale and conveyance of the Agency's right, title and interest in and to the Equipment shall be effected by the execution and delivery by the Agency to the Company of a bill of sale to Company. The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from such transfer of title.

(c) The Company agrees to prepare the bill of sale to Company and all schedules thereto, together with all necessary documentation, and to forward same to the Agency at least thirty (30) days prior to the date that title to the Equipment is to be conveyed to the Company.

11.13 DISCLOSURE.

Section 875(7) of the New York General Municipal Law ("GML") requires that the Agency post on its website all resolutions and agreements relating to the Company's appointment as an agent of the Agency or otherwise related to the Project; and Article 6 of the New York Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Company feels that there are elements of the Project or information about the Company in the Agency's possession which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the Company's competitive position, the Company must identify such elements in writing, supply same to the Agency on or before the Closing Date, and request that such elements be kept confidential in accordance with Article 6 of the Public

Officers Law. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the GML.

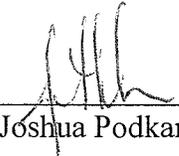
IN WITNESS WHEREOF, the Agency and the Company have caused this Agency Lease to be executed in their respective names by their duly authorized representatives.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 

William M. Ryan, Chairman

706 NORTH CLINTON, LLC

By: 

Joshua Podkaminer, Manager

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

On the 27th day of July in the year 2014 before me, the undersigned, personally appeared **WILLIAM M. RYAN**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Lori L. McRobbie

Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 2018

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

On the 30th day of July in the year 2014 before me, the undersigned, personally appeared **JOSHUA PODKAMINER**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Lori L. McRobbie

Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 2018

EXHIBIT "A"

REAL PROPERTY DESCRIPTION

EXHIBIT "A"

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block "C" of the former Village of Salina and a portion of the former Oswego Canal in said City and being more particularly bounded and described as follows:

BEGINNING at the intersection of the monumented easterly street line of North Clinton Street with the monumented southerly street line of Spencer Street; thence North 61 deg. 33 min. 00 sec. East along said southerly street line, a distance of 237.19 feet to a point of curvature; thence along the westerly highway boundary of Parcel Nos. 79, 78, & 173 of Map No. 75R-1 and Parcel No. 142 of Map No. 74, in part by each, as appropriated by N.Y.S.D.O.T. for Interstate Route 81 (S.H. 505-3-2.3) the following five (5) courses and distances: 1) along the arc of a tangent curve to the right having a radius of 20.00 feet, length of 22.91 feet and chord of South 85 deg. 27 min. 09 sec. East, 21.68 feet to a point of tangency; thence 2) South 52 deg. 47 min. 40 sec. East, a distance of 63.53 feet to a point of curvature; thence 3) along the arc of a tangent curve to the right having a radius of 257.00 feet, length of 108.64 feet and chord of South 40 deg. 31 min. 27 sec. East, 107.84 feet to a point; thence 4) South 62 deg. 08 min. 26 sec. West, a distance of 1.02 feet to a point; and 5) South 26 deg. 33 min. 58 sec. East, a distance of 210.53 feet to its intersection with the division line between the lands now or formerly of Greif Bros. Corporation as described in Book 3243 of Deeds at Page 195 on the north and the lands now or formerly of Expressway Properties, LLC as described in Book 4100 of Deeds at Page 50 on the south; thence the following three (3) courses and distances along said division line: 1) South 59 deg. 22 min. 10 sec. West, a distance of 157.07 feet to a point; thence 2) South 28 deg. 04 min. 00 sec. East, a distance of 19.18 feet to a point on a curve; and 3) along the arc of a non-tangent curve to the left having a radius of 320.00 feet, length of 197.96 feet and chord of South 18 deg. 57 min. 26 sec. West, 194.82 feet to its intersection with the aforementioned easterly street line of North Clinton Street, said point being North 28 deg. 04 min. 00 sec. West, along said easterly street line, 32.00 feet from its intersection with the northerly street line of West Division Street; thence North 28 deg. 04 min. 00 sec. West, along said easterly street line, a distance of 542.85 feet to the point of beginning, containing 2.866 acres of land, more or less.

EXHIBIT "B"

DESCRIPTION OF EQUIPMENT

All articles of personal property, all machinery, apparatus, equipment, appliances, floor coverings, furniture, furnishings, supplies, materials, fittings and fixtures of every kind and nature whatsoever and all appurtenances acquired by 706 North Clinton, LLC (the "*Company*") now or hereafter attached to, contained in or used or acquired in connection with the Land (as defined in the Agency Lease) and/or the Project Facility (as defined in the Agency Lease) or placed on any part thereof, though not attached thereto, including, but not limited to, pipes, screens, fixtures, heating, lighting, plumbing, ventilation, air conditioning, compacting and elevator plants, call systems, stoves, ranges, refrigerators, equipment, furniture, rugs, movable partitions, cleaning equipment, maintenance equipment, shelving, flagpoles, signs, waste containers, outdoor benches, drapes, blinds and accessories, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors, machinery; and together with any and all products of any of the above, all substitutions, replacements, additions or accessions therefor, and any and all cash proceeds or non-cash proceeds realized from the sale, transfer or conversion of any of the above.

EXHIBIT "C"

TABLE OF DEFINITIONS

The following terms shall have the meanings set forth below, unless the context or use clearly indicate another or different meaning and the singular form of such defined words and terms shall include the plural and vice versa:

Act: means the New York State Industrial Development Agency Act (N.Y. Gen. Municipal Law §§ 850 et seq.) as amended, together with Section 926 of the N.Y. General Municipal Law, as amended from time to time.

Additional Agents: means a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents appointed by the Company in furtherance of the completion of the Project in accordance with the terms of the Agency Lease.

Agency: means the City of Syracuse Industrial Development Agency and its successors and assigns.

Agency Documents: means the Agency Lease, the Company Lease, the PILOT Agreement and any other documents executed by the Agency in connection with the Project or the Financial Assistance granted in connection therewith.

Agency Lease: means the Agency Lease Agreement dated as of July 1, 2014, by and between the Agency and the Company, as the same may be amended or supplemented from time to time.

Application: means the application submitted by the Company to the Agency dated November 8, 2013, requesting the Agency undertake the Project, as same may be amended or supplemented from time to time.

Authorized Representative: means for the Agency, the Chairman or Vice Chairman of the Agency; for the Company, its Member or Managing Member or any officer designated in a certificate signed by an Authorized Representative of such Company and, for either the Agency or the Company, any additional persons designated to act on behalf of the Agency or the Company by written certificate furnished by the designating party containing the specimen signature of each designated person.

Bill of Sale: means that certain Bill of Sale from the Company to the Agency dated as of July 1, 2014 in connection with the Equipment.

City: means the City of Syracuse.

Closing Date: means July 30, 2014.

Closing Memorandum: means the closing memorandum of the Agency relating to the Project.

Company: means 706 North Clinton, LLC, a limited liability company, organized and existing under the laws of the State of New York having an address at c/o Emhoff Associates, LLC, 126 North Salina Street, Syracuse, New York 13202, and its permitted successors and assigns.

Company Certification: means the certification by the Company dated July ___, 2014 regarding compliance with the Agency's Local Labor Policy.

Company Documents: means the Company Lease, the Agency Lease, the PILOT Agreement, the Environmental Compliance and Indemnification Agreement, the Bill of Sale, the Company Certification and any other documents executed by the Company in connection with the Project or the Financial Assistance granted in connection therewith.

Company Lease: means the Company Lease Agreement dated as of July 1, 2014 from the Company to the Agency, pursuant to which the Company leased the Project Facility to the Agency, as the same may be amended or supplemented from time to time.

Condemnation: means the taking of title to, or the use of, Property under the exercise of the power of eminent domain by any governmental entity or other Person acting under governmental authority.

County: means the County of Onondaga in the State of New York.

Environmental Compliance and Indemnification Agreement: means the Environmental Compliance and Indemnification Agreement dated as of July 1, 2014 by the Company to the Agency.

Equipment: means all materials, machinery, furnishings, fixtures and equipment installed or used at the Project Facility, as of the Closing Date and thereafter acquired for or installed in, or upon, the Project Facility, as more fully described in **Exhibit "B"** to the Agency Lease.

Facility: means the buildings and other improvements located or to be constructed on the Land.

Financial Assistance: has the meaning given to such term in Section 854(14) of the Act.

Governmental Authority: means any federal, state, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign.

Land: means the improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York, more particularly described on **Exhibit "A"** attached to the Agency Lease.

Lien: means any interest in Property securing an obligation owed to a Person, whether such interest is based on the common law, statute or contract, and including, but not limited to, a security interest arising from a mortgage, encumbrance, pledge, conditional sale, or trust receipt or a lease, consignment or bailment for security purposes. The term "Lien" includes reservations, exceptions, encroachments, projections, easements, rights of way, covenants, conditions, restrictions, leases, and other similar title exceptions and encumbrances, including, but not limited to mechanics, materialmen, warehousemen, and carriers liens and other similar encumbrances effecting real property. For purposes hereof, a Person shall be deemed to be the owner of any property which it has acquired or holds subject to a conditional sale agreement or other arrangement pursuant to which title to the property has been retained by or vested in some other person for security purposes.

Mortgage: means one or more mortgages from the Agency and the Company to the Mortgagee and recorded in the Onondaga County Clerk's office subsequent to the filing and recording of the Memorandum of Agency Lease, securing construction and/or permanent financing for the Project Facility, executed in accordance with Section 4.5 of the Agency Lease, and securing the Promissory Note.

Mortgagee: means a lender, its successors and assigns, providing financing pursuant to the Promissory Note and Mortgage, relative to the costs of renovation, construction and/or equipping of the Project Facility.

Net Proceeds: means so much of the gross proceeds with respect to which that term is used as remain after payment of all expenses, costs and taxes (including attorneys' fees) incurred in obtaining such gross proceeds.

Note: means one or more notes given by the Company to the Mortgagee in connection with the Mortgage for construction or permanent financing relative to the Project Facility.

Permitted Encumbrances: means (A) utility, access and other easements and rights of way, and restrictions, encroachments and exceptions, that benefit or do not materially impair the utility or the value of the Property affected thereby for the purposes for which it is intended, (B) artisans', mechanics', materialmen's, warehousemen's, carriers', landlords', bankers', workmen's compensation, unemployment compensation and social security, and other similar Liens to the extent permitted by the Agency Lease, including the lien of the Mortgage, (C) Liens for taxes (1) to the extent permitted by the Agency Lease or (2) at the time not delinquent, (D) any Lien on the Project Facility obtained through any Agency Document or Company Document or the Mortgage, (E) Liens of judgments or awards in respect of which an appeal or proceeding for review shall be pending (or is pending within ten days after entry) and a stay of execution shall have been obtained (or is obtained within ten days after entry), or in connection with any claim or proceeding, (F) Liens on any Property hereafter acquired by the Company or any subsidiary which liens are created contemporaneously with such acquisition to secure or provide

for the payment or financing of any part of the purchase price thereof, (G) Liens consisting solely of restrictions under any applicable laws or any negative covenants in any applicable agreements (but only to the extent that such restrictions and covenants do not prohibit the execution, delivery and performance by the Company of the Agency Lease and the Mortgage, and (H) existing mortgages or encumbrances on the Project Facility as of the Closing Date or thereafter incurred with the consent of the Mortgagee.

Person: means an individual, partnership, corporation, limited liability company, trust, or unincorporated organization, and any government or agency or political subdivision or branch thereof.

PILOT Agreement: means the Payment in Lieu of Taxes Agreement dated as of July 1, 2014 among the City, the Agency and the Company, as amended or supplemented from time to time.

Plans and Specifications: means the plans and specifications, if any, and presented by the Company to the Agency in its application and presentation relating to the construction, reconstruction and equipping of the Project Facility; and any plans and specifications approved by the Mortgagee.

Project: shall have the meaning ascribed thereto in the third **WHEREAS** clause of this Agency Lease.

Project Facility: means the Land, the Facility, and the Equipment.

Property: means any interest in any kind of property or asset, whether real, personal, or mixed, or tangible or intangible.

Resolution or Resolutions: means the Agency's resolutions adopted on December 17, 2013 authorizing the undertaking of the Project and the execution and delivery of certain documents by the Agency in connection therewith, each as amended from time to time.

Sales and Use Tax or State Sales and Use Taxes: means, when used with respect to State sales and use taxes, sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

SEQRA: means the State Environmental Quality Review Act constituting Article 8 of the State Environmental Conservation Law and the regulations promulgated thereunder, as amended.

State: means the State of New York.

Unassigned Rights: means:

(i) the right of the Agency in its own behalf to receive all opinions of counsel, reports, financial statements, certificates, insurance policies, binders or certificates, or other notices or communications, if any, required to be delivered to the Agency under the Agency Lease;

(ii) the right of the Agency to grant or withhold any consents or approvals required of the Agency under the Agency Lease;

(iii) the right of the Agency to enforce or otherwise exercise in its own behalf all agreements of the Company with respect to ensuring that the Project Facility shall always constitute a qualified "project" as defined in and as contemplated by the Act;

(iv) the right of the Agency to require and enforce any right of defense and any indemnity from any Person;

(v) the right of the Agency in its own behalf (or on behalf of the appropriate taxing authorities) to enforce, receive amounts payable under or otherwise exercise its rights under Sections 2.2(f), 2.2(h), 2.2(m), 2.2(q), 4.1(d), 4.5, 5.3, 5.4, 6.2, 6.3, 6.4, 8.2, 8.3, 8.5, 8.7, 8.9, 8.12, 10.2, 10.4, 11.9, 11.11 and 11.12 of the Agency Lease and Sections 2.6(g), 4.8 and 4.9 of the Company Lease; and

(vi) the right of the Agency in its own behalf to declare an Event of Default under Article X of the Agency Lease or with respect to any of the Agency's Unassigned Rights.

EXHIBIT "D"

FORM OF CONTRACT STATUS REPORT

City of Syracuse
Industrial Development Agency
 333 West Washington St, Suite 130
 Syracuse, NY 13202
 Tel (315) 473-3275 Fax (315) 435-3669

Contract Status Report

To be submitted on quarterly basis during project construction and with any request for an extension of the Tax Exempt Certificate

It is the policy of SIDA to require the use of local* labor, contractors and suppliers for the construction, renovation, reconstruction and equipping of projects that receive agency support in the form of exemptions from State and local sales and use tax, mortgage recording tax and/or property taxes; and/or bond financing unless a written waiver is received from the Agency. _____ (the Company) certifies that the following information regarding the construction and purchase activities undertaken for the project as of _____ (date) is true and correct.

Item	Bid Awarded To (Name & Address)	Date & Value of Contract	MWBE (Yes/No)	Number of Jobs
Site work/Demolition				
Foundation and footings				
Building				
Masonry				
Metals				
Wood/casework				
Thermal and moisture proof				
Doors, windows, glazing				
Finishes				
Electrical				
HVAC				
Plumbing				
Specialties				
Machinery and Equipment				
Furniture and Fixtures				
Utilities				
Paving				
Landscaping				
Other (identify)				

*For the purposes of the Agency, the term "local" shall mean: Cayuga, Cortland, Madison, Oneida, Onondaga and Oswego Counties. The information contained herein is subject to verification.

Signature: _____ Name: _____

Title: _____ Date: _____

EXHIBIT "E"

FORM OF ANNUAL REPORTING REQUIREMENTS

SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY
333 West Washington Street, Suite 130, Syracuse, New York 13202

Date

COMPANY
COMPANY ADDRESS

Dear _____:

Our auditors, _____, CPAs are conducting an audit of our financial statements for the year ended December 31, _____. In connection with that audit, we request that you furnish certain information directly to our auditor with regard to the following security issued by/through the City of Syracuse Industrial Development Agency:

Sale - Leaseback Financing

Project: _____

Date of Financing:

Principal Amount Financed:

Maturity Date:

Original Interest Rate:

Please provide the following information as of December 31, [year]:

Name of Lender

Debt Retired in [year] Yes/No

Debt Refinanced in [year] Yes/No

(If Yes, please update information in Paragraph 1 above)

Debt in Default as of [date] Yes/No

Current Interest Rate(s)

Rate range, if Variable

Principal balance outstanding as of [date]

Principal payments made during [year]

Payments in Lieu of Taxes (PILOT)

paid in [year]

Total cost of goods/services purchased: \$ _____

New York State Sales Tax Exemptions Claimed [year]

New York Local Sales Tax Exemptions Claimed: [year]

New York State Mortgage Recording

Tax Exemption: [year]

Form of Syracuse Industrial Development Agency — Project Jobs Data [year]

From:

To: _____, CPAs

Re:

The following jobs information is furnished to you with regard to the above cited project:

Full Time Equivalent (FTE) Jobs Created and Retained – [year]

- # of Current FTE Employees as of [closing date]
- # of FTE Jobs Created during [year]
- # of FTE Jobs Retained during [year]
- # of FTE Construction Jobs Created during [year]

Comments:

Signature

Print Name

Title

Date

EXHIBIT "F"

FORM OF SUB-AGENT AGREEMENT

THIS SUB-AGENT APPOINTMENT AGREEMENT (the "*Agreement*"), dated as of _____, 20__, is by and between 706 NORTH CLINTON, LLC (the "*Company*"), with a mailing address of c/o Emhoff Associates, LLC, 126 North Salina Street, Syracuse, New York 13202 (the "*Company*"), and [NAME OF SUB-AGENT], a _____ of the State of New York, having an office for the transaction of business at _____ (the "*Sub-Agent*").

WITNESSETH:

WHEREAS, the City of Syracuse Industrial Development Agency (the "*Agency*") was created by Chapter 641 of the Laws of 1979 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "*Act*") as a body corporate and politic and as a public benefit corporation of the State of New York (the "*State*"); and

WHEREAS, by resolution of its members adopted on March 27, 2013 (the "*Resolution*"), the Agency agreed to undertake a project for the benefit of the Company (the "*Project*") consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the "*Land*"); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the "*Facility*"); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the "*Equipment*" and together with the Land and the Facility, the "*Project Facility*"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the "*Financial Assistance*"); (C) the appointment of the Company as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, under the Resolution and in the Agency Lease Agreement by and between the Company and the Agency dated as of _____ 1, 20__ (the "*Agency Lease*") the Agency appointed the Company as its agent for purposes of completing the Project and delegated to the Company the authority to appoint as agents of the Agency the Company's agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents, for the purpose of completing the Project and benefitting from the State and local sales and use tax

exemption that forms a portion of the Financial Assistance all in accordance with the terms of the Resolution and the Agency Lease; and

WHEREAS, the Company and the Agency entered into a an Agency Agreement dated as of July 1, 2014 (the “*Agency Agreement*”);

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. The Company hereby appoints the Sub-Agent as an agent of the Agency for the purpose of assisting the Company and the Agency in the completion of the Project and benefitting from the State and local sales and use tax exemption relative to expenditures made in furtherance thereof. The Sub-Agent is only an agent of the Agency for the aforementioned purposes. The Sub-Agent hereby agrees to limit its activities as agent for the Agency under the authority of this Agreement to acts reasonably related to the completion of the Project Facility.

2. The Sub-Agent covenants, agrees and acknowledges:

a. To make all records and information regarding State and local sales and use tax exemption benefits claimed by it in connection with the Project available to the Company and the Agency upon request. The Sub-Agent agrees to comply with all procedures and policies established by the State Department of Taxation and Finance, or any similar entity, regarding the documenting or reporting of any State and local sales and use tax exemption benefits, including providing to the Company all information of the Sub-Agent necessary for the Company to complete the State Department of Taxation and Finance’s “Annual Report of Sales and Use Tax Exemptions” (Form ST-340).

b. To be bound by and comply with the terms and conditions of the Agency’s policies, the Resolution, the Agency Lease and Section 875(3) of the Act (as if such section were fully set forth herein) (collectively the “*Agency Documents*”). Without limiting the scope of the foregoing, the Sub-Agent acknowledges that pursuant to Section 875(3) of the Act and the Agency Documents, the Agency shall recover, recapture, receive or otherwise obtain from the Sub-Agent the portion of the Financial Assistance (the “*Recapture Amount*”) consisting of: (1) (a) that portion of the State and local sales and use tax exemption claimed by the Sub-Agent to which the Sub-Agent was not entitled, which is in excess of the amount of the State and local sales and use tax exemption authorized by the Agency or which is for property or services not authorized by the Agency; or (b) the full amount of such State and local sales and use tax exemption claimed by the Sub-Agent, if the Sub-Agent fails to comply with a material term or condition regarding the use of the property or services as represented to the Agency in the Company’s application to the Agency in regard to the Project or otherwise; and (2) any interest or penalties thereon imposed by the Agency or by operation of law or by judicial order or otherwise.

c. That the failure of the Sub-Agent to promptly pay such Recapture Amount to the Agency will be grounds for the Agency and the State Commissioner of Taxation and Finance to collect sales and use taxes from the Sub-Agent under Article 28 of the Tax Law, and other applicable laws, together with interest and penalties. In addition to the foregoing, the Sub-

Agent acknowledges and agrees that for purposes of exemption from State sales and use taxation, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the Tax Law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

d. That all purchases made by the Sub-Agent in connection with the Project shall be made using Form ST-123 (IDA Agent or Project Operator Exempt Purchase Certificate), a copy of which is attached hereto as Exhibit "A"). It shall be the responsibility of the Sub-Agent (and not the Company or the Agency) to complete Form ST-123. The failure to furnish a completed Form ST-123 with each purchase will result in loss of the exemption for that purchase.

e. The Sub-Agent acknowledges and agrees that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Sub-Agent is making purchases of tangible personal property or services for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Sub-Agent acknowledges and agrees that the bill of invoice should state, "I, [NAME OF SUB-AGENT], certify that I am a duly appointed agent of the City of Syracuse Industrial Development Agency and that I am purchasing the tangible personal property or services for use in the following Agency project and that such purchases qualify as exempt from sales and use taxes under my Sub-Agent Appointment Agreement." The Sub-Agent further acknowledges and agrees that the following information shall be used by the Sub-Agent to identify the Project on each bill and invoice: [FILL IN the name of the Project, the street address of the Project site, and IDA project number].

f. That for purposes of any exemption from the State sales and use taxation as part of any Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

g. That the Sub-Agent shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the Project Facility (including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing), for such claims or liabilities that arise as a result of the Sub-Agent acting as agent for the Agency pursuant to this Agreement or otherwise.

The Sub-Agent shall indemnify and hold the Agency, its members, officers, employees and agents and anyone for whose acts or omissions the Agency or any one of them may be liable, harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation only to Sub-Agent's work on or for the Project Facility, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

The foregoing defenses and indemnities shall survive expiration or termination of this Agreement and shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

g. That as agent for the Agency or otherwise, the Sub-Agent will comply at the Sub-Agent's sole cost and expense with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Sub-Agent with respect to the Project Facility.

h. That Section 875(7) of the Act requires the Agency to post on its website all resolutions and agreements relating to the Sub-Agent's appointment as an agent of the Agency or otherwise related to the Project, including this Agreement, and that Public Officers Law Article 6 declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Sub-Agent feels that there is information about the Sub-Agent in the Agency's possession which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the Sub-Agent's competitive position, the Sub-Agent must identify such elements in writing, supply same to the Agency prior to or contemporaneously with the execution hereof and request that such elements be kept confidential in accordance with Public Officers Law Article 6. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the Act.

i. Unless a written waiver is first obtained from the Agency, Sub-Agents and employees shall utilize local labor, contractors and suppliers for the construction, renovation and equipping of the Project Facility. For purposes of this Agreement, the term "*local*" shall mean Onondaga, Oswego, Madison, Cayuga, Cortland and Oneida Counties. Failure to comply with the local labor requirements of this Section i ("*Local Labor Requirements*") may result in the revocation or recapture of benefits provided/approved to the Project by the Agency.

j. Shall timely provide the Company with the necessary information to permit the Company, pursuant to General Municipal Law §874(8), to timely file an Annual Statement with the New York State Department of Taxation and Finance on "Annual Report of Sales and Use Tax Exemptions" (Form ST-340) regarding the value of sales and use tax exemptions the Additional Agent claimed pursuant to the agency conferred on it by the Company with respect to this Project on an annual basis.

k. Failure to comply with the foregoing will result in the loss of the exemption.

l. If the Sub-Agent is the general contractor for the Project, then at all times following the execution of this Agreement, and during the term thereof, the Sub-Agent shall:

(A) maintain or cause to be maintained the following insurance policies with an insurance company licensed in the State that has an A.M. Best rating of not less than A-: (i) "All Risk" (excluding terrorism coverage if unavailable at commercially reasonable rates as determined by the Company) builder's risk insurance, including collapse coverage and coverage for material in storage and while in transit, for one hundred percent (100%) of the insurable replacement value of the Project on a replacement cost basis on all materials, equipment and supplies which are to become a permanent part of the Project, while awaiting erection and until completion; (ii) worker's compensation insurance including employer's liability to provide statutory benefits as required by applicable Legal Requirements; (iii) commercial general liability insurance for hazard of operation, independent contractors, products and completed operations, such liability insurance to include broad form property damage and afford coverage for explosion, collapse and underground hazards and personal injury liability insurance, and contractual liability coverage for the Company's indemnification obligations hereunder, all with limits of not less than Five Million Dollars (\$5,000,000) per occurrence on an "occurrence" basis and Ten Million Dollars (\$10,000,000) in the aggregate; and (iv) comprehensive automobile liability covering owned, non-owned and hired vehicles used in connection with the construction of the Project with limits of not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury and property damage. The Company shall deliver to SIDA any policies (or certificates thereof) with respect to insurance required hereunder prior to the commencement of construction or related work on the Project, and shall deliver renewal policies (or certificates thereof) at least thirty (30) days before the expiration date of any policy maintained in connection with the Project. All policies evidencing such insurance except the Workers' Compensation policy shall name the Company as insured and SIDA as an additional insured, as its interests may appear, and all policies shall provide that the coverage with respect to the Agency be primary and non-contributory and require at least thirty (30) days' prior written notice to the Agency of cancellation, reduction in policy limits, or material change in coverage thereof; and (B) to the extent that such provisions of law are in fact applicable (without creating an obligation by contract beyond that which is created by statute), it will comply with the requirements of Section 220 of the Labor Law of the State of New York, as amended.

3. Failure of the Sub-Agent to comply with any of the provisions of this Agreement shall result in the immediate nullification of the appointment of the Sub-Agent and the immediate termination of this Agreement and will result in the loss of the Sub-Agent's or the Company's State and local sales and use tax exemption with respect to the Project. In addition, such failure may result in the recapture of the State and local sales and use taxes avoided.

4. The Company acknowledges that the assumption of certain obligations by the Sub-Agent in accordance with this Agreement does not relieve the Company of its obligations under any provisions of the Resolution or Agreement (as defined in the Resolution) or of any other agreement entered into by the Company in connection with the Project.

5. The Company and the Sub-Agent agree that the Agency is a third-party beneficiary of this Agreement.

6. This Agreement shall be in effect until the earlier of: (i) the completion of the work on the Project by the Sub-Agent; or (ii) the Sub-Agent's loss of status as an agent of the

Agency as set forth herein. Notwithstanding the foregoing, the provisions of Sections 2(b), 2(c) and 2(f) shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the Company and the Sub-Agent have caused this Agreement to be executed in their respective names by their respective duty authorized officers, all as of the day and year first above written.

706 NORTH CLINTON, LLC

By: _____
Name: _____
Title: _____

[INSERT SUB-AGENT SIGNATURE BLOCK]

Exhibit A

Form ST-123 (see attached)



IDA Agent or Project Operator Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

This certificate is not valid unless all entries have been completed.

Note: To be completed by the purchaser and given to the seller. See TSB-M-14(1.1)S, Sales Tax Reporting and Recordkeeping Requirements for Industrial Development Agencies and Authorities, for more information.

Form with fields: Name of seller, Name of agent or project operator, Street address, City, town, or village, State, ZIP code, Agent or project operator sales tax ID number.

Mark an X in one: [] Single-purchase certificate [] Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my agreement with the IDA.

Form with fields: Name of IDA, Name of project, IDA project number, Street address of project site, City, town, or village, State, ZIP code, Enter the date that you were appointed agent or project operator, Enter the date that agent or project operator status ends.

Exempt purchases

(Mark an X in boxes that apply)

- [] A. Tangible personal property or services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) used to complete the project, but not to operate the completed project
[] B. Certain utility services (gas, propane in containers of 100 pounds or more, electricity, refrigeration, or steam) used to complete the project, but not to operate the completed project
[] C. Motor vehicle or tangible personal property installed in a qualifying motor vehicle

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence.

Form with fields: Signature of purchaser or purchaser's representative, Date, Type or print the name, title, and relationship that appear in the signature box

Instructions

To the purchaser

You may use Form ST-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from sales and use tax as described in the IDA contract.

You may use Form ST-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

Agent or project operator sales tax ID number — If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter *N/A*.

Industrial development agencies and authorities (IDAs) are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.

IDAs are exempt from the payment of sales and use tax on their purchases, in accordance with Tax Law section 1116(a)(1). However, IDAs do not normally make direct purchases for projects. Commonly, IDAs instead appoint a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax.

Example 1: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment necessary for completion of the project, as agent for the IDA. Contractor X rents a backhoe and a bulldozer for site preparation, purchases concrete and lumber to construct a building, and purchases machinery to be installed in the building. All these purchases by contractor X as agent of the IDA are exempt from tax.

Example 2: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment to be incorporated into the project, as agent for the IDA. Contractor X makes the same purchases as in Example 1. Since the concrete, lumber, and machinery will actually be incorporated into the project, contractor X may purchase these items exempt from tax. However, rental of the backhoe and bulldozer is not exempt since these transactions are normally taxable and the IDA agreement does not authorize contractor X to make such rentals as agent of the IDA.

A contractor or subcontractor not appointed as agent or project operator of an IDA must present suppliers with Form ST-120.1, *Contractor Exempt Purchase Certificate*, when making purchases that are ordinarily exempt from tax in accordance with Tax Law sections 1115(a)(15) and 1115(a)(16). For more information, see Form ST-120.1.

Exempt purchases

To qualify, the purchases must be made within the authority granted by the IDA and used to complete the project (not to operate the completed project).

- Mark box A to indicate you are purchasing tangible personal property and services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) exempt from tax.
- Mark box B to indicate you are purchasing certain consumer utility services used in completing the project exempt from tax. This includes gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam services.
- Mark box C to indicate you are purchasing a motor vehicle or tangible personal property related to a qualifying motor vehicle exempt from tax.

Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?



Visit our Web site at www.tax.ny.gov

- get information and manage your taxes online
- check for new online services and features



Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431



Text Telephone (TTY) Hotline

(for persons with hearing and speech disabilities using a TTY):

(518) 485-5082

4

ONONDAGA COUNTY CLERK'S OFFICE
 SANDRA A SCHEPP - COUNTY CLERK
 401 Montgomery St - Room 200
 Syracuse, NY 13202

Phone: 315-435-2226
 Fax: 315-435-3455

Doc Type: M/LEAS
 Grantor: CITY OF SYRACUSE INDUSTRIAL
 NU-706 NORTH CLINTON LLC
 Grantee: NU-706 NORTH CLINTON LLC
 CITY OF SYRACUSE INDUSTRIAL
 Legal Desc: SYR BLK C & OSWEGO CANAL SAL N W

Receipt: 1159162 RS
 Book/Page: 05290/0323 Inst: 24405
 Date Filed: 07/30/2014 at 2:46PM
 Updated: 07/31/2014 MS
 Record and Return To:

MARK ARBON ESQ
 SAROFEEEN & ARBON PLLC
 ONE LINCOLN CENTER STE 1110
 SYRACUSE NY 13202

Prop Address: 706-16 CLINTON ST N & SPENCER ST

Submitted by: SAROFEEEN

Recording Fees		Miscellaneous Fees	
Addl pages:	4 x 5.00 = \$ 20.00	RMI:	\$ 20.00
Addl Names:	0 x 0.50 = \$ 0.00	TP 584:	\$ 5.00
Addl Refs:	0 x 0.50 = \$ 0.00	RP5217:	\$ 0.00
Misc:	0.00	AFFTS:	\$ 0.00
Basic:	\$25.50		
=====		=====	
TOTAL:	\$45.50	TOTAL:	\$ 25.00

MORTGAGE TAX		DEED TRANSFER TAX	
Mortgage:		Consideration	\$0.00
Basic:	\$0.00	Transfer Tax:	\$0.00
Ins Fund:	\$0.00	SWIS:	3115
Net Add:	\$0.00	Map #:	118-04-01.0
Misc:	\$0.00		=====
=====		Total Paid	\$ 70.50
TOTAL	\$0.00	Control no	11838

WARNING - This sheet constitutes the Clerk's endorsement, required by Section 319 of the Real Property Law of the State of New York. Do not detach. Taxes imposed on this instrument at time of recording were paid. Certain information contained in this document is not verified by this office.

SANDRA A SCHEPP
 Onondaga County Clerk

Book/Page 05290 / 0323 Instrument no.: 24405



MEMORANDUM OF
AGENCY LEASE AGREEMENT

CITY OF SYRACUSE
3115

NAME AND ADDRESS OF LESSOR: City of Syracuse Industrial Development Agency
333 West Washington Street, Suite 130
Syracuse, New York 13202

NAME AND ADDRESS OF LESSEE: 706 North Clinton, LLC
c/o Emhoff Associates, LLC
126 North Salina Street
Syracuse, New York 13202

DESCRIPTION OF LEASED PREMISES:

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being more particularly described in **Exhibit "A"** annexed hereto, together with the improvements thereon.

DATE OF EXECUTION OF AGENCY LEASE AGREEMENT:

As of July 1, 2014

TERM OF AGENCY LEASE AGREEMENT:

The Agency Lease Agreement shall be in effect for a term commencing as of July 1, 2014 and terminating on June 30, 2025, or earlier as provided therein.

RECORD & RETURN TO: MARK ARBON, ESQ.
SAROFEEEN & ARBON, PLLC - #27007
ONE LINCOLN CENTER, SUITE 1110
SYRACUSE, NEW YORK 13202

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum as of the 1st day of July, 2014.

CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY

By: 
William M. Ryan, Chairman

706 NORTH CLINTON, LLC

By: 
Joshua Podkaminer, Manager

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

On this 29th day of July, 2014, before me, the undersigned, personally appeared, **WILLIAM M. RYAN**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Lori L. McRobbie
Notary Public

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

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18

On this 30th day of July, 2014, before me, the undersigned, personally appeared, **JOSHUA PODKAMINER**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Lori L. McRobbie
Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18

2/12/18

EXHIBIT "A"

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block "C" of the former Village of Salina and a portion of the former Oswego Canal in said City and being more particularly bounded and described as follows:

BEGINNING at the intersection of the monumented easterly street line of North Clinton Street with the monumented southerly street line of Spencer Street; thence North 61 deg. 33 min. 00 sec. East along said southerly street line, a distance of 237.19 feet to a point of curvature; thence along the westerly highway boundary of Parcel Nos. 79, 78, & 173 of Map No. 75R-1 and Parcel No. 142 of Map No. 74, in part by each, as appropriated by N.Y.S.D.O.T. for Interstate Route 81 (S.H. 505-3-2.3) the following five (5) courses and distances: 1) along the arc of a tangent curve to the right having a radius of 20.00 feet, length of 22.91 feet and chord of South 85 deg. 27 min. 09 sec. East, 21.68 feet to a point of tangency; thence 2) South 52 deg. 47 min. 40 sec. East, a distance of 63.53 feet to a point of curvature; thence 3) along the arc of a tangent curve to the right having a radius of 257.00 feet, length of 108.64 feet and chord of South 40 deg. 31 min. 27 sec. East, 107.84 feet to a point; thence 4) South 62 deg. 08 min. 26 sec. West, a distance of 1.02 feet to a point; and 5) South 26 deg. 33 min. 58 sec. East, a distance of 210.53 feet to its intersection with the division line between the lands now or formerly of Greif Bros. Corporation as described in Book 3243 of Deeds at Page 195 on the north and the lands now or formerly of Expressway Properties, LLC as described in Book 4100 of Deeds at Page 50 on the south; thence the following three (3) courses and distances along said division line: 1) South 59 deg. 22 min. 10 sec. West, a distance of 157.07 feet to a point; thence 2) South 28 deg. 04 min. 00 sec. East, a distance of 19.18 feet to a point on a curve; and 3) along the arc of a non-tangent curve to the left having a radius of 320.00 feet, length of 197.96 feet and chord of South 18 deg. 57 min. 26 sec. West, 194.82 feet to its intersection with the aforementioned easterly street line of North Clinton Street, said point being North 28 deg. 04 min. 00 sec. West, along said easterly street line, 32.00 feet from its intersection with the northerly street line of West Division Street; thence North 28 deg. 04 min. 00 sec. West, along said easterly street line, a distance of 542.85 feet to the point of beginning, containing 2.866 acres of land, more or less.

Bike Sal 10 + Oswego Canal Sal NW



Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax

Recording office time stamp

See Form TP-584-I, Instructions for Form TP-584, before completing this form. Print or type.

Schedule A – Information relating to conveyance

Grantor/Transferor <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input checked="" type="checkbox"/> Other	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantor) City of Syracuse Industrial Development Agency <hr/> Mailing address 333 West Washington Street, Suite 130 <hr/> City State ZIP code Syracuse NY 13202 <hr/> Single member's name if grantor is a single member LLC (see instructions)	Social security number Social security number Federal EIN 52-1380308 Single member EIN or SSN
Grantee/Transferee <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input checked="" type="checkbox"/> Other	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantee) 706 North Clinton, LLC <hr/> Mailing address c/o Emhoff Associates, LLC, 126 North Salina Street <hr/> City State ZIP code Syracuse NY 13202 <hr/> Single member's name if grantee is a single member LLC (see instructions)	Social security number Social security number Federal EIN 46-1284677 Single member EIN or SSN

Location and description of property conveyed

Tax map designation – Section, block & lot (include dots and dashes)	SWIS code (six digits)	Street address	City, town, or village	County
118-04-01.0		706-16 Clinton Street North and Spencer St.	Syracuse	Onondaga

Type of property conveyed (check applicable box)

1 <input type="checkbox"/> One- to three-family house 2 <input type="checkbox"/> Residential cooperative 3 <input type="checkbox"/> Residential condominium 4 <input type="checkbox"/> Vacant land	5 <input checked="" type="checkbox"/> Commercial/Industrial 6 <input type="checkbox"/> Apartment building 7 <input type="checkbox"/> Office building 8 <input type="checkbox"/> Other _____	Date of conveyance <table border="1" style="display: inline-table; text-align: center;"> <tr> <td style="width: 30px;">07</td> <td style="width: 30px;">28</td> <td style="width: 30px;">2014</td> </tr> <tr> <td>month</td> <td>day</td> <td>year</td> </tr> </table>	07	28	2014	month	day	year	Percentage of real property conveyed which is residential real property _____ 0 % (see instructions)
07	28	2014							
month	day	year							

Condition of conveyance (check all that apply)

- | | | |
|--|--|---|
| a. <input type="checkbox"/> Conveyance of fee interest

b. <input type="checkbox"/> Acquisition of a controlling interest (state percentage acquired _____ %)

c. <input type="checkbox"/> Transfer of a controlling interest (state percentage transferred _____ %)

d. <input type="checkbox"/> Conveyance to cooperative housing corporation

e. <input type="checkbox"/> Conveyance pursuant to or in lieu of foreclosure or enforcement of security interest (attach Form TP-584.1, Schedule E) | f. <input type="checkbox"/> Conveyance which consists of a mere change of identity or form of ownership or organization (attach Form TP-584.1, Schedule F)

g. <input type="checkbox"/> Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G)

h. <input type="checkbox"/> Conveyance of cooperative apartment(s)

i. <input type="checkbox"/> Syndication

j. <input type="checkbox"/> Conveyance of air rights or development rights

k. <input type="checkbox"/> Contract assignment | l. <input type="checkbox"/> Option assignment or surrender

m. <input type="checkbox"/> Leasehold assignment or surrender

n. <input checked="" type="checkbox"/> Leasehold grant

o. <input type="checkbox"/> Conveyance of an easement

p. <input type="checkbox"/> Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part III)

q. <input type="checkbox"/> Conveyance of property partly within and partly outside the state

r. <input type="checkbox"/> Conveyance pursuant to divorce or separation

s. <input type="checkbox"/> Other (describe) _____ |
|--|--|---|

For recording officer's use	Amount received Schedule B., Part I \$ _____ Schedule B., Part II \$ _____	Date received	Transaction number
-----------------------------	--	---------------	--------------------

Schedule B – Real estate transfer tax return (Tax Law, Article 31)

Part I – Computation of tax due

1 Enter amount of consideration for the conveyance (if you are claiming a total exemption from tax, check the exemption claimed box, enter consideration and proceed to Part III) <input checked="" type="checkbox"/> Exemption claimed	1.	0	00
2 Continuing lien deduction (see instructions if property is taken subject to mortgage or lien)	2.	0	00
3 Taxable consideration (subtract line 2 from line 1)	3.	0	00
4 Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3	4.	0	00
5 Amount of credit claimed for tax previously paid (see instructions and attach Form TP-584.1, Schedule G)	5.	0	00
6 Total tax due* (subtract line 5 from line 4)	6.	0	00

Part II – Computation of additional tax due on the conveyance of residential real property for \$1 million or more

1 Enter amount of consideration for conveyance (from Part I, line 1)	1.		
2 Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A) ...	2.		
3 Total additional transfer tax due* (multiply line 2 by 1% (.01))	3.		

Part III – Explanation of exemption claimed on Part I, line 1 (check any boxes that apply)

The conveyance of real property is exempt from the real estate transfer tax for the following reason:

- a. Conveyance is to the United Nations, the United States of America, the state of New York, or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or Canada)..... a
- b. Conveyance is to secure a debt or other obligation..... b
- c. Conveyance is without additional consideration to confirm, correct, modify, or supplement a prior conveyance..... c
- d. Conveyance of real property is without consideration and not in connection with a sale, including conveyances conveying realty as bona fide gifts d
- e. Conveyance is given in connection with a tax sale..... e
- f. Conveyance is a mere change of identity or form of ownership or organization where there is no change in beneficial ownership. (This exemption cannot be claimed for a conveyance to a cooperative housing corporation of real property comprising the cooperative dwelling or dwellings.) Attach Form TP-584.1, Schedule F..... f
- g. Conveyance consists of deed of partition..... g
- h. Conveyance is given pursuant to the federal Bankruptcy Act h
- i. Conveyance consists of the execution of a contract to sell real property, without the use or occupancy of such property, or the granting of an option to purchase real property, without the use or occupancy of such property..... i
- j. Conveyance of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than \$200,000 and such property was used solely by the grantor as the grantor's personal residence and consists of a one-, two-, or three-family house, an individual residential condominium unit, or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative apartment..... j
- k. Conveyance is not a conveyance within the meaning of Tax Law, Article 31, section 1401(e) (attach documents supporting such claim) See Schedule "A"..... k

*The total tax (from Part I, line 6 and Part II, line 3 above) is due within 15 days from the date conveyance. Please make check(s) payable to the county clerk where the recording is to take place. If the recording is to take place in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, make check(s) payable to the **NYC Department of Finance**. If a recording is not required, send this return and your check(s) made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule C – Credit Line Mortgage Certificate (Tax Law, Article 11)

Complete the following only if the interest being transferred is a fee simple interest.

(we) certify that: (check the appropriate box)

1. The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
 - The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
 - The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
 - The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
 - The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is **not** principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

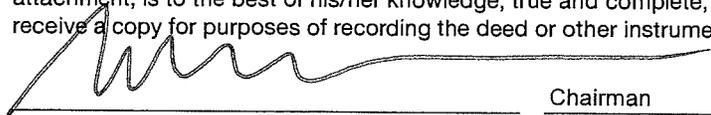
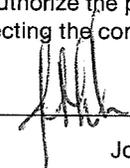
Please note: for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

Other (attach detailed explanation).

3. The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
 - A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
 - A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
4. The real property being transferred is subject to an outstanding credit line mortgage recorded in _____ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is _____. No exemption from tax is claimed and the tax of _____ is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City but not in Richmond County, make check payable to the **NYC Department of Finance**.)

Signature (both the grantor(s) and grantee(s) must sign)

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

 _____ Grantor signature William M. Ryan	_____ Chairman Title	 _____ Grantee signature Joshua Podkaminer	_____ Manager Title
_____ Grantor signature	_____ Title	_____ Grantee signature	_____ Title

Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, to the **NYC Department of Finance**? If no recording is required, send your check(s), made payable to the **Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule D - Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, section 663)

Complete the following only if a fee simple interest or a cooperative unit is being transferred by an individual or estate or trust.

If the property is being conveyed by a referee pursuant to a foreclosure proceeding, proceed to Part II, and check the second box under Exemptions for nonresident transferor(s)/seller(s) and sign at bottom.

Part I - New York State residents

If you are a New York State resident transferor(s)/seller(s) listed in Schedule A of Form TP-584 (or an attachment to Form TP-584), you must sign the certification below. If one or more transferors/sellers of the real property or cooperative unit is a resident of New York State, each resident transferor/seller must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

Certification of resident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law, section 663(a) upon the sale or transfer of this real property or cooperative unit.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

Note: A resident of New York State may still be required to pay estimated tax under Tax Law, section 685(c), but not as a condition of recording a deed.

Part II - Nonresidents of New York State

If you are a nonresident of New York State listed as a transferor/seller in Schedule A of Form TP-584 (or an attachment to Form TP-584) but are not required to pay estimated personal income tax because one of the exemptions below applies under Tax Law, section 663(c), check the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor(s)/seller(s), that transferor(s)/seller(s) is not required to pay estimated personal income tax to New York State under Tax Law, section 663. Each nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all nonresident transferors/sellers.

If none of these exemption statements apply, you must complete Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, or Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*. For more information, see *Payment of estimated personal income tax*, on page 1 of Form TP-584-I.

Exemption for nonresident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) (grantor) of this real property or cooperative unit was a nonresident of New York State, but is not required to pay estimated personal income tax under Tax Law, section 663 due to one of the following exemptions:

- The real property or cooperative unit being sold or transferred qualifies in total as the transferor's/seller's principal residence (within the meaning of Internal Revenue Code, section 121) from _____ Date to _____ Date (see instructions).
- The transferor/seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure, or in lieu of foreclosure with no additional consideration.
- The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

SCHEDULE "A"

The document being recorded for which this NYS Form TP-584 is being provided is a Memorandum of Lease between the Grantor and the Grantee. The sum of the term of the lease and any options for renewal do not exceed forty-nine (49) years, and therefore said lease is not a Conveyance within the meaning of Article 31 of the Tax Law.

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CERTIFICATION

Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Agency Lease by and between the parties dated as of [July 1, 2014].

The undersigned, the Manager and authorized signatory of the Company, does hereby certify and confirm:

(1) that the Company has reviewed and understands the Agency's Local Labor Policy which states as follows:

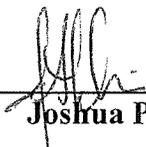
The Company understands and agrees that local labor, contractors and suppliers will be used for the construction, renovation, reconstruction and equipping of the Project unless a written waiver is first received from the Agency. Failure to comply may result in the revocation or recapture of benefits awarded to the Project by the Agency.

For purposes of this policy, the term "local" shall mean: Cayuga, Cortland, Madison, Oneida, Onondaga and Oswego Counties.

(2) that the Company has complied, and will, for so long as the Agency has an interest in the Project, continue to comply with, the Agency's Local Labor Policy.

Dated: July 30, 2014

706 NORTH CLINTON, LLC

By:  _____
Joshua Podkaminer, Manager

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
7/29/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Bailey, Haskell & LaLonde 169 Main Street (Commercial Lines) Oneida NY 13421	CONTACT NAME: PHONE (A/C, No, Ext): 315-363-2100 E-MAIL ADDRESS:	FAX (A/C, No):	
	INSURER(S) AFFORDING COVERAGE		NAIC #
INSURED SEVZE2 706 North Clinton, LLC c/o Joshua W. Podkaminer 126 North Salina Street Syracuse NY 13202	INSURER A: Cincinnati Insurance Company		10677
INSURER B:			
INSURER C:			
INSURER D:			
INSURER E:			
INSURER F:			

COVERAGES **CERTIFICATE NUMBER:** 1349228287 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC	Y		EPP0249064	5/2/2014	5/2/2015	EACH OCCURRENCE	\$1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$500,000
							MED EXP (Any one person)	\$10,000
							PERSONAL & ADV INJURY	\$1,000,000
							GENERAL AGGREGATE	\$2,000,000
							PRODUCTS - COMP/OP AGG	\$2,000,000
								\$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident)	\$
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE	\$
							AGGREGATE	\$
								\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				WC STATUTORY LIMITS	OTHER
							E.L. EACH ACCIDENT	\$
							E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$
A	Builders Risk			EPP0249064	5/2/2014	5/2/2015	All Covered Property	\$2,800,000
							Deductable	\$2,500

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
City of Syracuse Industrial Development Agency is included as additional insured.

CERTIFICATE HOLDER City of Syracuse Industrial Development Agency 333 West Washington Street Suite 130 Syracuse NY 13202	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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EVIDENCE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
07/30/2014

THIS EVIDENCE OF PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

AGENCY Bailey, Haskell & LaLonde 169 Main Street Oneida, NY 13421		PHONE (A/C, No, Ext): 315 363-2100	COMPANY Cincinnati Insurance Company PO Box 145496 Cincinnati, OH 45250-5496	
FAX (A/C, No): 315-363-2183	E-MAIL ADDRESS: rgalusha@bhlinsurance.com			
CODE:	SUB CODE:			
AGENCY CUSTOMER ID #: 82578				
INSURED 706 North Clinton, LLC c/o Joshua W. Podkaminer; 126 North Salina Street Syracuse, NY 13202			LOAN NUMBER	POLICY NUMBER EPP0249064
			EFFECTIVE DATE 05/27/14	EXPIRATION DATE 05/27/15
			<input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED	
THIS REPLACES PRIOR EVIDENCE DATED:				

PROPERTY INFORMATION

LOCATION/DESCRIPTION
Location #1 706 North Clinton Street Syracuse, NY 13204

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION

COVERAGE/PERILS/FORMS	AMOUNT OF INSURANCE	DEDUCTIBLE

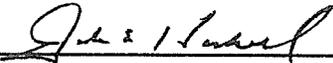
REMARKS (Including Special Conditions)

Certificate holder is named as loss payee.

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ADDITIONAL INTEREST

NAME AND ADDRESS Syracuse Industrial Development Agency 333 West Washington Street Suite 130 Syracuse, NY 13202	<input type="checkbox"/> MORTGAGEE	<input type="checkbox"/> ADDITIONAL INSURED
	<input checked="" type="checkbox"/> LOSS PAYEE	
	LOAN #	
AUTHORIZED REPRESENTATIVE 		

7

ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT

THIS ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT (the “*Agreement*”) is made as of the July 1, 2014, between 706 NORTH CLINTON, LLC (the “*Indemnitor*”), for the benefit of the CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY (the “*Agency*”).

RECITALS

WHEREAS, the Agency has undertaken at the request of the Indemnitor, a project (the “*Project*”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York, as more fully described on Schedule A attached hereto (the “*Land*”); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the “*Facility*”); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the “*Financial Assistance*”); (C) the appointment of the Company as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

NOW, THEREFORE, in consideration of the premises, Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Indemnitor, intending to be legally bound, hereby agrees as follows:

1. **Recitals; Definitions.**

(a) The foregoing recitals are incorporated into this Agreement by this reference.

(b) Capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Schedule of Definitions attached to the Agency Lease as Exhibit “C.”

2. **Representations and Warranties.**

(a) Except as disclosed in Schedule B annexed hereto, Indemnitor represents and warrants that it has no knowledge of any deposit, storage, disposal, burial, discharge, spillage, uncontrolled loss, seepage or filtration of oil, petroleum or chemical liquids or solids, liquid or gaseous products or any hazardous wastes or hazardous substances (collectively, “*Hazardous Substances*”), as those terms are used in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or in any other federal, state or local law governing hazardous substances, as such laws may be amended from time to time (collectively,

the “*Hazardous Waste Laws*”), at, upon, under or within the Project Facility or any contiguous real estate, and (ii) it has not caused or permitted to occur, and shall not permit to exist, any condition which may cause a discharge of any Hazardous Substances at, upon, under or within the Project Facility or on any contiguous real estate.

(b) Except as disclosed in the reports listed on Schedule B annexed hereto, Indemnitor further represents and warrants that (i) it has not been nor will be involved in operations at or near the Project Facility which operations could lead to (A) the imposition of liability on Indemnitor or on any subsequent or former owner of the Project Facility or (B) the creation of a lien on the Project Facility under the Hazardous Waste Laws or under any similar laws or regulations; and (ii) it has not permitted, and will not permit, any tenant or occupant of the Project Facility to engage in any activity that could impose liability under the Hazardous Waste Laws on such tenant or occupant, on Agency, the Indemnitor or on any other owner of any of the Project Facility.

3. Covenants.

(a) Indemnitor shall comply strictly and in all respects with the requirements of the Hazardous Waste Laws and related regulations and with all similar laws and regulations and shall notify Agency immediately in the event of any discharge or discovery of any Hazardous Substance at, upon, under or within the Project Facility which is not otherwise already disclosed in Schedule B. Indemnitor shall promptly forward to Agency copies of all orders, notices, permits, applications or other communications and reports in connection with any discharge or the presence of any Hazardous Substance or any other matters relating to the Hazardous Waste Laws or any similar laws or regulations, as they may affect the Project Facility.

(b) Promptly upon the written request of Agency, Indemnitor shall provide Agency, at Indemnitor’s expense, with an environmental site assessment or environmental audit report prepared by an environmental engineering firm acceptable to the requesting Person, to assess with a reasonable degree of certainty the presence or absence of any Hazardous Substances and the potential costs in connection with abatement, cleanup or removal of any Hazardous Substances found on, under, at or within the Project Facility.

4. Indemnity.

(a) Indemnitor shall at all times indemnify and hold harmless Agency against and from any and all claims, suits, actions, debts, damages, costs, losses, obligations, judgments, charges, and expenses, of any nature whatsoever suffered or incurred by Agency, whether as contract vendor, owner, mortgagee, as mortgagee in possession, or as successor-in-interest to Indemnitor by foreclosure deed or deed in lieu of foreclosure, under or on account of the Hazardous Waste Laws or any similar laws or regulations, including the assertion of any lien thereunder, with respect to:

(1) any discharge of Hazardous Substances, the threat of a discharge of any Hazardous Substances, or the presence of any Hazardous Substances affecting the Project Facility whether or not the same originates or emanates from the Project Facility or any

contiguous real estate including any loss of value of the Project Facility as a result of any of the foregoing;

(2) any costs of removal or remedial action incurred by the United States Government or any costs incurred by any other person or damages from injury to, destruction of, or loss of natural resources, including reasonable costs of assessing such injury, destruction or loss incurred pursuant to any Hazardous Waste Laws;

(3) liability for personal injury or property damage arising under any statutory or common law tort theory, including, without limitation, damages assessed for the maintenance of a public or private nuisance or for the carrying on of an abnormally dangerous activity at or near the Project Facility; and/or

(4) any other environmental matter affecting the Project Facility within the jurisdiction of the Environmental Protection Agency, any other federal agency, or any state or local agency.

The obligations of Indemnitor under this Agreement shall arise whether or not the Environmental Protection Agency, any other federal agency or any state or local agency has taken or threatened any action in connection with the presence of any Hazardous Substances.

(b) In the event of any discharge of Hazardous Substances, the threat of a discharge of any Hazardous Substances, or the presence of any Hazardous Substances affecting the Project Facility, whether or not the same originates or emanates from the Project Facility or any contiguous real estate, and/or if Indemnitor shall fail to comply with any of the requirements of the Hazardous Waste Laws or related regulations or any other environmental law or regulation, Agency may at its election, but without the obligation so to do, give such notices and/or cause such work to be performed at the Project Facility and/or take any and all other actions as Agency shall deem necessary or advisable in order to abate the discharge of any Hazardous Substance, remove the Hazardous Substance or cure the noncompliance of Indemnitor.

(c) Indemnitor acknowledges that Agency has relied upon the representations, warranties, covenants and indemnities of Indemnitor in this Agreement. All of the representations, warranties, covenants and indemnities of this Agreement shall survive the repayment of Indemnitor's obligations under the Agency Lease or other Company Documents.

5. **Attorney's Fees.** If Agency retains the services of any attorney in connection with the subject of the indemnity herein, Indemnitor shall pay Agency's costs and reasonable attorneys' fees thereby incurred. Agency may employ an attorney of its own choice.

6. **Interest.** In the event that Agency incurs any obligations, costs or expenses under this Agreement, Indemnitor shall pay such Person immediately on demand, and if such payment is not received within ten (10) days, interest on such amount shall, after the expiration of the ten-day period, accrue at the interest rate set forth in the Agency Lease until such amount, plus interest, is paid in full.

7. **No Waiver.** Notwithstanding any terms of the Company Documents to the contrary, the liability of Indemnitor under this Agreement shall in no way be limited or impaired by: (i) any extensions of time for performance required by any of the Company Documents; (ii) any sale, assignment or foreclosure of the Agency Lease or any sale or transfer of all or part of the Project Facility; (iii) the accuracy or inaccuracy of the representations and warranties made by Indemnitor under any of the Company Documents; or (iv) the release of Indemnitor or any other person from performance or observance of any of the agreements, covenants, terms or conditions contained in the Company Documents by operation of law, Agency's voluntary act, or otherwise; and, in any such case, whether with or without notice to Indemnitor and with or without consideration.

8. **Waiver by Indemnitor.** Indemnitor waives any right or claim of right to cause a marshalling of Indemnitor's assets or to cause Agency to proceed against any of the security for the Agency Lease before proceeding under this Agreement against Indemnitor or to proceed against Indemnitor in any particular order; Indemnitor agrees that any payments required to be made hereunder shall become due on demand; Indemnitor expressly waives and relinquishes all rights and remedies (including any rights of subrogation) accorded by applicable law to indemnitors or guarantors.

9. **Releases.** Any one or more of Indemnitor and any other party liable upon or in respect of this Agreement or the Agency Lease may be released without affecting the liability of any party not so released.

10. **Amendments.** No provision of this Agreement may be changed, waived, discharged or terminated orally, by telephone or by any other means except by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

11. **Joint and Several Liability.** In the event that this Agreement is executed by more than one party as Indemnitor, the liability of such parties is joint and several. A separate action or actions may be brought and prosecuted against each Indemnitor, whether or not an action is brought against any other person or whether or not any other person is joined in such action or actions.

12. **Consent to Jurisdiction.** Indemnitor consents to the exercise of personal jurisdiction over Indemnitor by any federal or state court in the State of New York and consent to the laying of venue in any jurisdiction or locality in the City of Syracuse. Service shall be effected by any means permitted by the court in which any action is filed.

13. **Notices.** All notices, certificates, and other communications hereunder shall be in writing, shall be sufficiently given, and shall be deemed given when (a) sent to the applicable address stated below by registered or certified mail, return receipt requested, and actually received by the intended recipient or by overnight courier or such other means as shall provide the sender with documentary evidence of such delivery, or (b) delivery is refused by the addressee as evidenced by the affidavit of the Person who attempted to effect such delivery. The addresses to which notices, certificates, and other communications hereunder shall be delivered are as follows:

(a) If to the Agency, to:

City of Syracuse Industrial Development Agency
333 West Washington Street, Suite 130
Syracuse, New York 13202
Attention: Chairman

With a copy to:

City of Syracuse
233 East Washington Street
Syracuse, New York 13202
Attn: Corporation Counsel

(b) If to the Company, to:

706 North Clinton, LLC
c/o Emhoff Associates, LLC
126 North Salina Street
Syracuse, New York 13202
Attn: Joshua Podkaminer, Manager

With copies to:

Mark Arbon, Esq.
Sarofeen & Arbon, PLLC
One Lincoln Center
110 West Fayette Street, Suite 1110
Syracuse, New York 13202

The Agency and the Company, may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, and other communications shall be sent.

14. **Waivers.** The parties waive trial by jury in any action brought on, under or by virtue of this Agreement. Indemnitor waives any right to require Agency at any time to pursue any remedy in such Person's power whatsoever. The failure of Agency to insist upon strict compliance with any of the terms hereof shall not be considered to be a waiver of any such terms, nor shall it prevent Agency from insisting upon strict compliance with this Agreement or any other Company Document at any time thereafter.

15. **Severability.** If any clause or provisions herein contained operates or would prospectively operate to invalidate this Agreement in whole or in part, then such clause or provision shall be held for naught as though not contained herein, and the remainder of this Agreement shall remain operative and in full force and effect.

16. **Inconsistencies Among the Company Documents.** Nothing contained herein is intended to modify in any way the obligations of Indemnitor under the Agency Lease or any

other Company Document. Any inconsistencies among the Company Documents shall be construed, interpreted and resolved so as to benefit Agency.

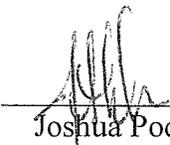
17. **Successors and Assigns.** This Agreement shall be binding upon Indemnitor's successors, assigns, heirs, personal representatives and estate and shall inure to the benefit of Agency and its successors and assigns.

18. **Controlling Laws.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Indemnitor has executed this Agreement as of the date first above written.

706 NORTH CLINTON, LLC

By: 
Joshua Podkaminer, Manager

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

On the 30th day of July, in the year 2014 before me, the undersigned, a notary public in and for said state, personally appeared **JOSHUA PODKAMINER**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18

SCHEDULE "A"

LEGAL DESCRIPTION

SCHEDULE "A"

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block "C" of the former Village of Salina and a portion of the former Oswego Canal in said City and being more particularly bounded and described as follows:

BEGINNING at the intersection of the monumented easterly street line of North Clinton Street with the monumented southerly street line of Spencer Street; thence North 61 deg. 33 min. 00 sec. East along said southerly street line, a distance of 237.19 feet to a point of curvature; thence along the westerly highway boundary of Parcel Nos. 79, 78, & 173 of Map No. 75R-1 and Parcel No. 142 of Map No. 74, in part by each, as appropriated by N.Y.S.D.O.T. for Interstate Route 81 (S.H. 505-3-2.3) the following five (5) courses and distances: 1) along the arc of a tangent curve to the right having a radius of 20.00 feet, length of 22.91 feet and chord of South 85 deg. 27 min. 09 sec. East, 21.68 feet to a point of tangency; thence 2) South 52 deg. 47 min. 40 sec. East, a distance of 63.53 feet to a point of curvature; thence 3) along the arc of a tangent curve to the right having a radius of 257.00 feet, length of 108.64 feet and chord of South 40 deg. 31 min. 27 sec. East, 107.84 feet to a point; thence 4) South 62 deg. 08 min. 26 sec. West, a distance of 1.02 feet to a point; and 5) South 26 deg. 33 min. 58 sec. East, a distance of 210.53 feet to its intersection with the division line between the lands now or formerly of Greif Bros. Corporation as described in Book 3243 of Deeds at Page 195 on the north and the lands now or formerly of Expressway Properties, LLC as described in Book 4100 of Deeds at Page 50 on the south; thence the following three (3) courses and distances along said division line: 1) South 59 deg. 22 min. 10 sec. West, a distance of 157.07 feet to a point; thence 2) South 28 deg. 04 min. 00 sec. East, a distance of 19.18 feet to a point on a curve; and 3) along the arc of a non-tangent curve to the left having a radius of 320.00 feet, length of 197.96 feet and chord of South 18 deg. 57 min. 26 sec. West, 194.82 feet to its intersection with the aforementioned easterly street line of North Clinton Street, said point being North 28 deg. 04 min. 00 sec. West, along said easterly street line, 32.00 feet from its intersection with the northerly street line of West Division Street; thence North 28 deg. 04 min. 00 sec. West, along said easterly street line, a distance of 542.85 feet to the point of beginning, containing 2.866 acres of land, more or less.

SCHEDULE "B"

EXCEPTIONS

Phase I Environmental Assessment dated January, 2014 prepared by Synapse Risk Management, LLC.

A copy of the report is on file with the Agency.

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CLOSING RECEIPT

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY LEASE/SUBLEASE TRANSACTION 706 NORTH CLINTON, LLC PROJECT

CLOSING RECEIPT executed July 30, 2014 by the City of Syracuse Industrial Development Agency (the “*Agency*”) and 706 North Clinton, LLC (the “*Company*”) in connection with a certain project (the “*Project*”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the “*Land*”); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the “*Facility*”); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the “*Equipment*”) and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the “*Financial Assistance*”); (C) the appointment of the Company as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

WITNESSETH:

(1) The Agency has executed, delivered, sealed and acknowledged, where appropriate, the documents to which it is a party, and acknowledges receipt from the Company of its administrative fee.

(2) The Company has executed, delivered, sealed and acknowledged, where appropriate, the documents to which it is a party.

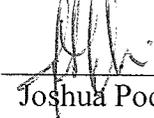
(Signature page to Closing Receipt)

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 

William M. Ryan, Chairman

706 NORTH CLINTON , LLC

By: 

Joshua Podkaminer, Manager

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City of Syracuse
Industrial Development Agency

333 West Washington Street, Suite 130
Syracuse, New York 13202
Tel (315) 473-3275 Fax (315) 435-3669

July 30, 2014

706 North Clinton, LLC
c/o Emhoff Associates, LLC
126 North Salina Street
Syracuse, New York 13202
Attn: Joshua Podkaminer, Manager

Re: City of Syracuse Industrial Development Agency
706 North Clinton, LLC Project
Sales Tax Appointment Letter

Dear Mr. Podkaminer:

Pursuant to a resolution duly adopted on December 17, 2013, the City of Syracuse Industrial Development Agency (the “**Agency**”) appointed 706 North Clinton, LLC (the “**Company**”) the true and lawful agent of the Agency to undertake a project (the “**Project**”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the “**Land**”); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the “**Facility**”); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the “**Financial Assistance**”); (C) the appointment of the Company as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement (the “**Agency Lease**”). The amount of State and local sales and use tax exemption benefits comprising the Financial Assistance approved by the Agency shall not exceed \$288,000.

This appointment includes, and this letter evidences, authority to purchase on behalf of the Agency all materials to be incorporated into and made an integral part of the Project Facility and the following activities as they relate to any renovation, improvement and equipping of any buildings, whether or not any materials, equipment or supplies described below are incorporated into or become an integral part of such buildings: (1) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with renovation, improvement and equipping; (2) all purchases, rentals, uses or consumption of supplies, materials, utilities and services of every kind and description used in connection with renovation, improvement and equipping; and (3) all purchases, leases, rentals and uses of equipment, machinery and other tangible personal property (including installation costs), installed or placed in, upon or under such building or facility, including all repairs and replacements of such property, and with respect to such specific purchases or rentals, are exempt from any sales or use tax imposed by the State of New York or any governmental instrumentality located within the State of New York.

This agency appointment includes the power to delegate such agency, in whole or in part to a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, "***Additional Agents***") provided the Company has first satisfied the conditions in the Agency Lease relative to the appointment of Additional Agents. The Company hereby agrees to complete "IDA Appointment of Project Operator or Agent for Sales Tax Purposes" (Form ST-60) for itself and each Additional Agent who provide materials, equipment, supplies or services to the Project Facility and deliver said form to the Agency within fifteen (15) days of appointment such that the Agency can execute and deliver said form to the State Department of Taxation and Finance within thirty (30) days of appointment. The Agency's obligation to execute any Form St-60 relative to an Additional Agent is subject to the satisfaction of the conditions in the Agency Lease relative to such appointments.

The Company agrees, whenever requested by the Agency, to provide, or cause its agents to provide, and certify, or cause to be certified, such information regarding use of local labor, job creation, exemptions from State and local sales and use tax, real property taxes and mortgage recording taxes and other topics as the Agency from time to time reasonably considers necessary or appropriate, including, but not limited to, such information as to enable the Agency to make any reports required by law or governmental regulation, including but not limited to those required by §875 of the Act.

The Company acknowledges and agrees, that pursuant to Section 875(3) of the Act and in connection with Agency policy, the Agency shall recover, recapture, receive or otherwise obtain from the Company the portion of the Financial Assistance (the "***Recapture Amount***") consisting of (1) (a) that portion of the State and local Sales and Use Tax exemption to which the Company was not entitled, which is in excess of the amount of the State and local Sales and Use tax exemption authorized by the Agency or which is for property or services not authorized by the Agency; or (b) the full amount of such State and local Sales and Use Tax exemption, if the Company fails to comply with a material term or condition regarding the use of the property or services as provided in the Agency Documents; (2) together with any interest or penalties

thereon imposed by the Agency or by operation of law or by judicial order or otherwise. The failure of the Company to promptly pay such Recapture Amount to the Agency will be grounds for the State Commissioner of Taxation and Finance (the "**Commissioner**") to collect the State Sales and Use Taxes from the Company under Article 28 of the State Tax Law, together with interest and penalties and for the Agency to take, or cause to be taken, any and all action necessary to collect the local portion of the sales tax comprising the Recapture Amount.

Each supplier or vendor should identify the Project Facility on each bill or invoice and indicate thereon which of the Company or its Additional Agents acted as agent for the Agency in making the purchase.

In order to be entitled to use this exemption, you should present to the supplier or other vendor of materials for the Project Facility, a completed "IDA Agent or Project Operator Exempt Purchase Certificate" (Form ST-123).

In addition, General Municipal Law §874(8) requires you to file an Annual Statement with the New York State Department of Taxation and Finance ("**NYSDTF**") on "Annual Report of Sales and Use Tax Exemptions" (Form ST-340) regarding the value of sales and use tax exemptions you, your agents, consultants or subcontractors have claimed pursuant to the agency we have conferred on you with respect to this project. The penalty for failure to file such statement is the removal of your authority to act as our agent. In addition, you must provide a copy of the completed Form ST-340 to the Agency within ten (10) days of the date it is due to be filed with the NYSDTF.

The agency created by this letter is limited to the Project Facility, and will expire on the earlier of July 1, 2015 or the issuance of a certificate of occupancy by the City. You may apply to extend this agency authority by showing good cause.

This letter is provided for the sole purpose of evidencing, in part, the exemption from New York State Sales and Use Taxes **for this project only**. No other principal/agent relationship is intended or may be implied or inferred by this letter.

The Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever (including payment or performance obligations), and the Company shall be the sole party liable thereunder. By acceptance of this letter, the vendor hereby acknowledges the limitations on liability described herein.

(SIGNATURE PAGE TO FOLLOW)

706 North Clinton, LLC
July 30, 2014
Page 4

Very truly yours,

CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY

By: 

William M Ryan, Chairman

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IDA Appointment of Project Operator or Agent For Sales Tax Purposes

ST-60

(4/13)

The industrial development agency or authority (IDA) must submit this form within 30 days of the appointment of a project operator or agent, whether appointed directly by the IDA or indirectly by the operator or another agent.

For IDA use only

Name of IDA City of Syracuse Industrial Development Agency		IDA project number (use OSC numbering system for projects after 1998)	
Street address 333 West Washington Street, Suite 130		Telephone number (315) 473-3275	
City Syracuse	State NY	ZIP code 13202	
Name of IDA project operator or agent 706 North Clinton, LLC	Mark an X in the box if directly appointed by the IDA: <input checked="" type="checkbox"/>	Employer identification or social security number 46-1284677	
Street address c/o Emhoff Associates, LLC, 126 North Salina Street	Telephone number (315) 476-7917	Primary operator or agent? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
City Syracuse	State NY	ZIP code 13221	
Name of project 706 North Clinton, LLC Project	Purpose of project (see instructions) other - commercial		
Street address of project site 706-16 Clinton Street North and Spencer Street			
City Syracuse	State NY	ZIP code 13202	
Description of goods and services intended to be exempted from New York State and local sales and use taxes building materials, equipment, fixtures and furnishings installed in the Project Facility			

Date project operator or agent appointed (mm/dd/yy) 07/30/14	Date project operator or agent status ends (mm/dd/yy) 07/01/15	Mark an X in the box if this is an extension to an original project: <input type="checkbox"/>
Estimated value of goods and services that will be exempt from New York State and local sales and use tax: \$3,600,000	Estimated value of New York State and local sales and use tax exemption provided: \$288,000	

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of officer or employee signing on behalf of the IDA William M. Ryan	Print title Chairman
Signature 	Date 07/29/2014
	Telephone number (315) 473-3275

Instructions

Filing requirements

An IDA must file this form within 30 days of the date the IDA appoints any project operator or other person as agent of the IDA, for purposes of extending any sales and compensating use tax exemptions.

The IDA must file a separate form for each person it appoints as agent, whether directly or indirectly, and regardless of whether the person is the primary project operator or agent. If the IDA authorizes a project operator or agent to appoint other persons as agent of the IDA, the operator or agent making such an appointment must advise the IDA that it has done so, so that the IDA can file a form within 30 days of the date of the new agent's appointment. The IDA should not file this form for a person hired to work on an IDA project if that person is not appointed as agent of the IDA. The IDA need not file this form if the IDA does not extend any sales or use tax exemption benefits for the project.

If an IDA modifies a project, such as by extending it beyond its original completion date, or by increasing or decreasing the amount of sales and use tax exemption benefits authorized for the project, the IDA must, within 30 days of the change, file a new form with the new information.

If an IDA amends, revokes, or cancels the appointment of an agent, or if an agent's appointment becomes invalid for any reason, the IDA must, within 30 days, send a letter to the address below for filing this form, indicating that the appointment has been amended, revoked, or cancelled, or is no longer valid, and the effective date of the change. It should attach to the letter a copy of the form it originally filed. The IDA need not send a letter for a form that is not valid merely because the "Completion date of project" has passed.

Purpose of project

For Purpose of project, enter one of the following:

- Services
- Agriculture, forestry, fishing
- Finance, insurance, real estate
- Transportation, communication, electric, gas, sanitary services
- Construction
- Wholesale trade
- Retail trade
- Manufacturing
- Other (specify)

Mailing instructions

Mail completed form to:

**NYS TAX DEPARTMENT
IDA UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227**

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?

	Internet access: www.tax.ny.gov (for information, forms, and publications)
	Sales Tax Information Center: (518) 485-2889 To order forms and publications: (518) 457-5431
	Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082

HISCOCK & BARCLAY^{LLP}

Susan R. Katzoff
Partner

August 1, 2014

VIA CERTIFIED MAIL
7012 0470 0000 2744 2103

New York State Tax Department
IDA Unit
Building 8, Room 738
W.A. Harriman Campus
Albany, New York 12227

Re: IDA Appointment of Project Operator or Agent for Sales Tax Purposes
City of Syracuse Industrial Development Agency Appointment of
706 North Clinton, LLC

Dear Ladies and Gentlemen:

Enclosed for filing on behalf of the City of Syracuse Industrial Development Agency, please find form ST-60 in connection with the appointment by the IDA of 706 North Clinton, LLC as its agent for sales tax purposes in connection with the IDA project identified therein.

Please do not hesitate to contact me with any questions. Thank you.

Very truly yours,

COPY

Susan R. Katzoff

SRK:llm
Enclosure

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BILL OF SALE TO AGENCY

706 NORTH CLINTON, LLC, a New York State limited liability company, with an address at c/o Emhoff Associates, LLC, 126 North Salina Street, New York 13202 (the "**Company**"), for the consideration of One Dollar (\$1.00), cash in hand paid, and other good and valuable consideration received by the Company from the City of Syracuse Industrial Development Agency, a public benefit corporation organized and existing pursuant to the laws of the State of New York (the "**Agency**"), having its office at 333 West Washington Street, Suite 130, Syracuse, New York 13202, the receipt of which is hereby acknowledged by the Company, hereby sells, transfers, and delivers unto the Agency, its successors and assigns, all those materials, machinery, equipment, fixtures and furnishings now owned or hereafter acquired by the Company in connection with the Project Facility, as described in the Agency Lease entered between the Agency and the Company dated as of July 1, 2014 (the "**Agency Lease**"), and as listed on "**Exhibit A**" attached hereto.

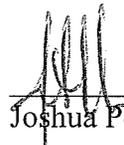
TO HAVE AND HOLD the same unto the Agency, its successors and assigns, forever.

The Company hereby represents and warrants that it is the true and lawful owner of the personal property being conveyed hereby, that all of the foregoing are free and clear of all liens, security interests, and encumbrances, except for Permitted Encumbrances, as defined in the Agency Lease, and that the Company has the right to sell the same as aforesaid; and the Company covenants that it will warrant and defend title to the same for the benefit of the Agency and its successors and assigns against the claims and demands of all persons.

IN WITNESS WHEREOF, the Company has caused this instrument to be executed by its duly authorized representative on the date indicated beneath the signature of such representative and dated as of the 1st day of July, 2014.

706 NORTH CLINTON, LLC

By:



Joshua Podkaminer, Manager

EXHIBIT "A"

DESCRIPTION OF THE EQUIPMENT

All articles of personal property, all machinery, apparatus, equipment, appliances, floor coverings, furniture, furnishings, supplies, materials, fittings and fixtures of every kind and nature whatsoever and all appurtenances acquired by 706 North Clinton, LLC (the "*Company*") now or hereafter attached to, contained in or used or acquired in connection with the Land (as defined in the Agency Lease) and/or the Project Facility (as defined in the Agency Lease) or placed on any part thereof, though not attached thereto, including, but not limited to, pipes, screens, fixtures, heating, lighting, plumbing, ventilation, air conditioning, compacting and elevator plants, call systems, stoves, ranges, refrigerators, equipment, furniture, rugs, movable partitions, cleaning equipment, maintenance equipment, shelving, flagpoles, signs, waste containers, outdoor benches, drapes, blinds and accessories, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors, machinery; and together with any and all products of any of the above, all substitutions, replacements, additions or accessions therefor, and any and all cash proceeds or non-cash proceeds realized from the sale, transfer or conversion of any of the above.

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CITY OF SYRACUSE

and

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT
AGENCY

and

706 NORTH CLINTON, LLC

PAYMENT IN LIEU OF TAX AGREEMENT

Dated as of: July 1, 2014

706 North Clinton, LLC
Federal Tax ID #: 46-1284677

THIS PAYMENT IN LIEU OF TAX AGREEMENT, (this "Agreement") dated as of July 1, 2014, by and among the CITY OF SYRACUSE, a municipal corporation of the State of New York, having an office at City Hall, Syracuse, New York 13202 (hereinafter referred to as the "*Municipality*"), the CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation organized and existing under the laws of the State of New York (hereinafter referred to as the "*Agency*"), having an office at City Hall Commons, 333 West Washington Street, Suite 130, Syracuse, New York 13202, and 706 NORTH CLINTON, LLC, a limited liability company organized and existing pursuant to the laws of the State of New York, having a principal place of business at 126 North Salina Street, Syracuse, NY 13202, New York (hereinafter referred to as the "*Company*").

WITNESSETH:

WHEREAS, the New York State Industrial Development Agency Act, being Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of the State of New York, as amended (hereinafter referred to as the "*Enabling Act*") authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and furnish real and personal property, whether or not now in existence or under construction, which shall be suitable for, among others, manufacturing, warehousing, research, commercial or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease and to sell its projects, to charge and collect rent therefor, to issue its bonds or notes for the purpose of carrying out any of its corporate purposes and, as security for the payment of the principal and redemption price of, and interest on, any such bonds or notes, to mortgage any or all of its facilities and to pledge the revenues and receipts therefrom to the payment of such bonds or notes; and

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act,

Chapter 641 of the 1979 Laws of the State of New York, as amended (said chapter and the Enabling Act being hereinafter collectively referred to as the "*Act*") created the Agency for the benefit of the Municipality and the inhabitants thereof; and

WHEREAS, the Agency, by Resolution adopted on December 17, 2013, (the "*Resolution*"), resolved to undertake the "*Project*" (as hereinafter defined); and

WHEREAS, the Project will consist of: (A)(i) the Agency's acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the "*Land*"); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the "*Facility*"); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the "*Equipment*" and together with the Land and the Facility, the "*Project Facility*"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the "*Financial Assistance*"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency will lease the Project Facility from the Company pursuant to that certain Company Lease Agreement dated as of July 1, 2014 (the "*Company Lease Agreement*"), between the Company and the Agency, and sublease the Project Facility back to the Company pursuant to that certain Agency Lease Agreement dated as of July 1, 2014, (the "*Agency Lease Agreement*"), between the Agency and the Company (collectively the Company Lease Agreement and the Agency Lease Agreement are hereinafter referred to as the ("*Lease Agreement*")); and

WHEREAS, under the present provisions of the Act and Section 412-a of the Real Property Tax Law of the State of New York, the Agency is required to pay no taxes or assessments

upon any of the property acquired by it or under its jurisdiction or supervision or control; and

WHEREAS, the Company, to further induce the Agency to assist with the Project, has agreed with the Municipality and the Agency to enter into this Agreement; the Municipality's participation in this Agreement has been duly authorized by Ordinance No.49 of 2014, adopted by the Municipality's Common Council on January 13, 2014, and approved by Mayor Stephanie A. Miner on January 14, 2014.

NOW, THEREFORE, in consideration of the matters above recited, the parties hereto formally covenant, agree and bind themselves as follows, to wit:

ARTICLE I

REPRESENTATIONS AND WARRANTIES

Section 1.01. Representations and Warranties by Municipality

The Municipality does hereby represent, warrant and covenant as follows:

(a) Authorization. The Municipality has secured all approvals of appropriate officers, boards and bodies of the Municipality necessary to duly authorize the execution, delivery and performance of this Agreement by the Municipality and the performance by the Municipality of its obligations hereunder.

(b) Validity. The Municipality is not prohibited from entering into this Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement by the terms, conditions or provisions of any law, any order of any court or other agency or authority of government, or any agreement or instrument to which the Municipality is a party or by which the Municipality is bound, and this Agreement is a legal, valid and binding obligation of the Municipality enforceable in accordance with its terms.

Section 1.02. Representations and Warranties by Agency

The Agency does hereby represent and warrant as follows:

(a) Existence and Power. The Agency has been duly established under the provisions of the Act and has the power to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder.

(b) Intentions. The Agency intends to acquire a leasehold interest in the Project Facility from the Company and to sublease the Project Facility back to the Company, all pursuant to the provisions of the Lease Agreement.

(c) Authorization. The Agency is authorized and has the corporate power under the Act, its by-laws and the laws of the State of New York to enter into this Agreement and the transactions contemplated hereby and to perform and carry out all the covenants and obligations on its part to be performed under and pursuant to this Agreement. By proper corporate action on the part of its members, the Agency has duly authorized the execution, delivery and performance of this Agreement and the consummation of the transactions herein contemplated.

(d) Validity. The Agency is not prohibited from entering into this Agreement and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement by the terms, conditions or provisions of the Act, any other law, any order of any court or other agency or authority of government, or any agreement or instrument to which the Agency is a party or by which the Agency is bound, and this Agreement is a legal, valid and binding obligation of the Agency enforceable in accordance with its terms.

Section 1.03. Representations and Warranties by Company

The Company does hereby represent and warrant as follows:

(a) Existence. The Company is a limited liability company duly organized and validly existing as a limited liability company under the laws of the State of New York.

(b) Authorization. The Company is authorized and has the power under the laws of the State of New York to enter into this Agreement and the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement. The Company has duly authorized the execution, delivery and performance of this Agreement and the consummation of the transactions herein contemplated. The Company is not prohibited from entering into this Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement by (and the execution, delivery and performance of this Agreement, the consummation of the transactions contemplated hereby and the fulfillment of and compliance with the provisions of this Agreement will not conflict

with or violate or constitute a breach of or a default under) the terms, conditions or provisions of its Articles of Organization, Operating Agreement or any other restriction or any law, rule, regulation or order of any court or other agency or authority of government, or any contractual limitation, restriction or outstanding indenture, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which the Company is a party or by which it or any of its property is bound, and the Company's discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement will neither be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any of the foregoing, nor result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any of the foregoing, and this Agreement is a legal, valid and binding obligation of the Company enforceable in accordance with its terms.

(c) Governmental Consent. No further consent, approval or authorization of, or filing, registration or qualification with, any governmental or public authority on the part of the Company is required as a condition to the execution, delivery or performance of this Agreement by the Company or as a condition to the validity of this Agreement.

ARTICLE II

COVENANTS AND AGREEMENTS

Section 2.01. Tax-Exempt Status of the Project Facility

(a) Assessment of the Project Facility. Pursuant to the Act and Section 412-a of the Real Property Tax Law, the parties hereto understand that, upon acquisition of ownership or control of the Project Facility by the Agency, and for so long thereafter as the Agency shall own or control the Project Facility, the Project Facility shall be entitled to an exemption upon the first available assessment roll of the Municipality prepared subsequent to the acquisition by the Agency of ownership or control of the Project Facility. The time of commencement of the Agency's exemption shall be controlled by the Municipality's taxable status date, in conformity with Section 412-a of the Real Property Tax Law. The Company will be required to pay to the Municipality all taxes and assessments lawfully levied and/or assessed against the Project Facility, in spite of the Agency's actual ownership or control of the Project Facility, until the Project Facility shall be

entitled to exempt status on the tax roll of the Municipality.

(b) Special Assessments. The parties hereto understand that the tax exemption extended to the Agency by the Act and Section 412-a of the Real Property Tax Law does not entitle the Agency to exemption from special assessments and special ad valorem levies. The Company will be required to pay all special assessments and special ad valorem levies lawfully levied and/or assessed against the Project Facility.

Section 2.02. Payments in Lieu of Taxes

(a) Agreement to Make Payments. The Company agrees that it shall make periodic payments in lieu of real property taxes in the amounts hereinafter provided. The said payments due to the Agency hereunder shall be paid by the Company, to the Municipality, by check made payable to "*Commissioner of Finance*". Upon receipt of the Company's payment, it shall be the Municipality's obligation to appropriately disburse any portion of the said payment to the County of Onondaga, or such other taxing jurisdiction, pursuant to the Act. This Company obligation shall exist for so long as the Agency retains an interest in the Project Facility. Notwithstanding the appearance of the Agency's exemption on the Municipality's tax roll for the 2015/2016 City and School portion of the real property tax due on the Land and Facility, the year 1 payment due for the City and School portion of the year 1 payment under Exhibit "A" shall commence on July 1, 2015. The year 1 payment due for the County and Water District portion of the year 1 payment under Exhibit "A" shall commence on January 1, 2016. Without regard to the Agency exemption, the Company shall continue paying real property tax through June 30, 2015 with respect to the City and School portion of the real property tax and through December 31, 2015 with respect to the County and Water District portion of the real property tax, based upon the assessment and the combined real property tax rate in effect for that period as if the Project Facility were privately owned and the Agency had no interest in the same.

(b) Amount of Payments in Lieu of Taxes. Unless otherwise stated, the Company's agreed upon annual payment in lieu of tax hereunder shall be an amount determined by reference to Exhibit "A", attached hereto and made a part hereof. The payments in lieu of tax due, as set forth in Exhibit "A", include any real property tax exemptions that might be afforded to the Company if the

Project Facility were owned by the Company and not the Agency. As consideration for the benefits conferred on the Company pursuant to this Agreement, the Company hereby agrees to be bound by any determination by the City of Syracuse Board of Assessment Review resulting from a review of the assessment pertaining to the Project Facility and/or Additional Property throughout the term of this Agreement. The Company hereby agrees to waive any and all right to challenge or contest in a court of law (a "*Legal Challenge*"), those payments or the basis for those payments due pursuant to Exhibit "A." It shall also be an event of default under Article IV of this Agreement should the Company bring a Legal Challenge on the Project Facility and/or Additional Property.

(c) Additional Amounts in Lieu of Taxes. Commencing on the first tax year following the date on which any structural addition shall be made to the Facilities, or any new or additional building shall be constructed on the real property described in Exhibit "B" that is in addition to the Facilities (such structural additions and additional buildings being hereinafter referred to as "*Additional Property*"), the Company agrees to make additional periodic payments in lieu of real property taxes (such additional payments being hereinafter collectively referred to as "*Additional Payments*") to the Municipality with respect to such Additional Property. Such Additional Payments shall be computed as follows:

By multiplying (1) the value placed on such Additional Property, as value is determined by the Municipality's Assessor by (2) the tax rate or rates of the Municipality that would be applicable to such Additional Property if such Additional Property were owned or controlled by the Company and not the Agency, and (3) then reducing the amount so determined by the amounts of any properly acquired tax exemptions that would be afforded to the Company by the Municipality for such Additional Property as if it was owned or controlled by the Company and not the Agency.

(d) Revaluation. In the event of a real property assessment revaluation by the Municipality, the Company shall continue to make its payments in accordance with this Agreement; however, in the event that Exhibit "A" is no longer in effect, but payments are still being made hereunder for any reason, (including, but not limited to, the Agency still having an interest in the Project Facility), and would be effected by revaluation, each year's payments subsequent to such

revaluation shall be adjusted to properly reflect the revaluation, it being the intent of the parties that the level of payments following revaluation shall be equal to those payments contemplated by this Agreement.

(e) Damage or Destruction. In the event that all or substantially all of the Project Facility is damaged or destroyed, the Company shall continue to make the payments required by this Agreement for as long as the Agency shall own or control the Project Facility, without regard to such damage or destruction.

(f) Time of Payments. The Company agrees to pay the amounts due the Agency hereunder to the Municipality for each year of this Agreement, within the period that the Municipality allows payment of taxes levied in such calendar year without penalty. The Company shall be entitled to receive receipts from the Municipality for such payments.

(g) Method of Payment. All payments by the Company hereunder shall be paid to the Municipality in lawful money of the United States of America, cash, money order or check.

Section 2.03. Obligation of Municipality

The Municipality shall submit to the Company written semi-annual statements specifying the amount and due date or dates of any payments due to the Agency hereunder. Each said semi-annual statement shall be submitted to the Company at the same time that tax bills are mailed by the Municipality to the owners of privately owned property.

Section 2.04. Obligations of Agency

(a) Requirement that any Project Facility Agreements Require Payments in Lieu of Taxes. So long as the Project Facility shall be entitled to exemption from real property taxes as provided in Section 2.01(a) hereof, the Agency agrees, to the extent permitted by law, that it shall not make any agreement regarding the leasing or sale of the Project Facility which does not require that payments in lieu of taxes shall be paid to the Municipality in at least the amounts set forth in Article II hereof.

(b) Requirement that Mortgagees Subordinate to Payments. The Agency and the Company agree that any mortgages on the Project Facility, given by either of them, shall provide that the rights of the mortgagees thereunder shall be subordinate to this Agreement and to the right

of the Municipality to receive payments in lieu of taxes pursuant to Article II hereof.

Section 2.05. Company to Furnish Information

The Company agrees to promptly comply with the reporting and information requirements of the Agency and the Act, and to immediately furnish the applicable information required or requested by the Agency and/or the State of New York. The Company further agrees to assist the Agency with the preparation of any reports, or answer any inquiries, required by the State of New York in connection with the Act or the Agency's participation in the Project.

Section 2.06. Interest

(a) Agreement to Pay Interest on Missed Payments. If the Company shall fail to make any payment required by this Agreement when due, its obligation to make the payment so in default shall continue as an obligation of the Company until such payment in default shall have been made in full, and the Company shall pay the same together with interest thereon, to the extent permitted by law, at the greater of (i) **eighteen per cent (12%) per annum**, or (ii) **the rate per annum which would be payable if such amounts were delinquent taxes, until so paid in full.**

(b) Maximum Legal Rate. It is the intent of the Agency, the Municipality, and Company that in no event shall interest be payable at a rate in excess of the maximum rate permitted by applicable law (the "Maximum Legal Rate"). Solely to the extent necessary to prevent interest under this Agreement from exceeding the Maximum Legal Rate, any amount that would be treated as excessive under a final judicial interpretation of applicable law shall be deemed to have been a mistake and automatically canceled, and, if received by the Agency or Municipality, shall be refunded to the Company.

ARTICLE III

LIMITED OBLIGATION OF THE AGENCY

Section 3.01. No Recourse; Limited Obligation of the Agency

(a) No Recourse. All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency and not of any member, director, officer,

agent, servant or employee of the Agency in his individual capacity, and no recourse under or upon any obligation, covenant or agreement contained in this Agreement, or otherwise based on or in respect of this Agreement, or for any claim based thereon or otherwise in respect thereof, shall be had against any past, present or future member, director, officer, agent, servant or employee, as such, of the Agency or any successor public benefit corporation or political subdivision or any person executing this Agreement on behalf of the Agency, either directly or through the Agency or any successor public benefit corporation or political subdivision or any person so executing this Agreement. It is expressly understood that this Agreement is a corporate obligation, and that no such personal liability whatever shall attach to, or is or shall be incurred by, any such member, director, officer, agent, servant or employee of the Agency or of any successor public benefit corporation or political subdivision or any person so executing this Agreement under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom. Any and all such personal liability of, and any and all such rights and claims against, every such member, director, officer, agent, servant or employee under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom are, to the extent permitted by law, expressly waived and released as a condition of, and as a consideration for, the execution of this Agreement.

(b) Limited Obligation. The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or the Municipality, and neither the State of New York nor the Municipality shall be liable thereon. Furthermore, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project.

(c) Further Limitation. Notwithstanding any provision of this Agreement to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (i) the Agency shall have been requested to do so in writing by the Company and (ii) if compliance with such request is expected to result in the incurrence by the Agency (or any of its

members, directors, officers, agents, servants or employees) of any liability, fees, expenses or other costs, the Agency shall have received from the Company security or indemnity satisfactory to the Agency for protection against all such liability, however remote, and for the reimbursement of all such fees, expenses and other costs.

ARTICLE IV
EVENTS OF DEFAULT

Section 4.01. Events of Default

Any one or more of the following events shall constitute an event of default under this Agreement, and the terms "*Event of Default*" or "*Default*" shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) Failure of the Company to pay any amount due and payable by it pursuant to this Agreement or the Lease Agreement.

(b) Commencement by the Company of a Legal Challenge, as defined in Section 2.02(b), to those payments or the basis for those payments due pursuant to Exhibit "A."

(c) Failure of the Company to observe and perform any other covenant, condition or agreement on its part to be observed and performed under this Agreement (other than as referred to in paragraph (a) above) or the Lease Agreement, and continuance of such failure for a period of thirty (30) days after written notice to the Company specifying the nature of such failure and requesting that it be remedied.

(d) Any warranty, representation or other statement by or on behalf of the Company contained in this Agreement or the Lease Agreement shall prove to have been false or incorrect in any material respect on the date when made or on the effective date of this Agreement or the Lease Agreement.

(e) The Company violates any federal, state or local environmental law or allows or causes any Hazardous Materials (as Hazardous Materials is defined and described in any federal, state or local law) to be released at, on, to, into or from the Project Facility, except as permitted by the Lease Agreement or within the terms and conditions of a permit, certificate, license or other

written approval of an authorized governmental body, and fails to remedy such violation within thirty (30) days; or if such failure cannot be cured within thirty (30) days, fails to commence a cure within thirty (30) days and thereafter diligently prosecute the cure thereof.

(f) The occurrence of any Event of Default or Default under this Agreement, the Lease Agreement or any other Project documents.

(g) Failure of the Company to commence construction of the Project Facility within six months of the date of this Agreement.

The payment schedule contained in Exhibit "A" is for the benefit of the Company and its Project Facility. In the event that the Company defaults hereunder, and the Lease Agreement cannot be terminated, and/or the Agency's participation in the Project and this Agreement is not or cannot be terminated, the Company, or any assignee, or successor shall no longer be entitled to make payments under this Agreement pursuant to Exhibit "A". In such an event, payments shall be made hereunder, for any remaining term of the Project, as if the Project Facility was privately owned and assessed and without any further regard to Exhibit "A".

Section 4.02. Remedies on Company Default

Whenever any Event of Default under Sections 4.01(a), 4.01(b), 4.01(c), 4.01(d), 4.01(e), 4.01 (f) or 4.01(g) shall have occurred and be continuing with respect to this Agreement, and/or the Company shall be in default under the Lease Agreement, the Municipality or the Agency may take whatever action at law or in equity, following applicable notice, as may appear necessary or desirable to collect the amount then in default or to enforce the performance and observance of the obligations, agreements and covenants of the Company under this Agreement and/or the Lease Agreement.

Section 4.03. Recording of Lease Terminations and Other Documents

Whenever any Event of Default under Sections 4.01(a), 4.01(b), 4.01(c), 4.01(d), 4.01(e) 4.01 (f) or 4.01(g) shall have occurred and be continuing with respect to this Agreement or the Lease Agreement, the Agency may, upon notice to the Company provided for in this Agreement or the Lease Agreement, terminate the Lease Agreement and record such termination or other necessary documents in the Onondaga County Clerk's Office, terminating the Agency's interest in

the Project Facility and terminating this Agreement.

The recording of such a termination and any other documentation shall constitute delivery to, and acceptance of such, by the Company. In order to facilitate such a termination, the Company hereby appoints the Chairman or the Vice Chairman of the Agency as its agent for the purpose of executing and delivering all documents necessary to allow such termination by the Agency.

In the event that the Lease Agreement, for any reason, is extended by its terms, or for any reason this Agreement expires or terminates, but the Agency retains an interest or remains in title to the Project Facility, the Company shall continue to make payments in lieu of taxes to the Municipality for as long as the Agency retains an interest in, or remains in title to, the Project Facility. Those payments shall be the equivalent of the real property taxes that would be due on the Project Facility if it were owned by the Company and not the Agency. It is the intention of the parties hereto, that for so long as the Agency shall possess title to, or an interest in, the Property, the Company, or any permitted successors or assigns, shall make payments in lieu of taxes to the Municipality that are either based upon Exhibit "A", or if Exhibit "A" is no longer applicable for any reason, are the equivalent of the real property taxes that would be due and owing if the Project Facility were privately owned.

Section 4.04. Payment of Attorney's Fees and Expenses

If the Company should default in performing any of its obligations, covenants and agreements under this Agreement and the Agency or the Municipality should employ attorneys (whether in-house or outside counsel) or incur other expenses for the collection of any amounts payable hereunder or for the enforcement of performance or observance of any obligation or agreement on the part of the Company herein contained, the Company agrees that it will, on demand therefor, pay to the Agency and/or the Municipality the reasonable fees and disbursements of such attorneys and such other reasonable expenses so incurred.

Furthermore, should the Company bring a Legal Challenge on the Project Facility and/or Additional Property during the term of this Agreement, and the Agency and/or the Municipality waives its right to declare a default under this Agreement in regard to such Legal Challenge, or such Legal Challenge is determined not to be a default of this Agreement by any Court of competent

jurisdiction, the Company agrees that in the event that the Company is unsuccessful in its Legal Challenge, it will, on demand, pay to the Agency and/or the Municipality the reasonable fees and disbursements of any attorneys employed (whether in-house or outside counsel) for the defense of such Legal Challenge as well as such other reasonable expenses so incurred.

Section 4.05. Remedies; Waiver and Notice

(a) No Remedy Exclusive. No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.

(b) Delay. No delay or omission in exercising any right or power accruing upon the occurrence of any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

(c) Notice Not Required. In order to entitle the Agency or the Municipality to exercise any remedy reserved to it in this Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Agreement.

(d) No Waiver. In the event any provision contained in this Agreement should be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Agreement shall be established by conduct, custom or course of dealing.

ARTICLE V

MISCELLANEOUS

Section 5.01. Term of Agreement

(a) General. This Agreement shall become effective and the obligations of the Municipality, the Agency and the Company shall arise absolutely and unconditionally upon the execution and delivery of this Agreement. This Agreement shall terminate on the earliest to occur

of (i) the same date that the Agency Lease Agreement terminates; (ii) on any earlier date permitted under the Agency Lease Agreement; or (iii) upon the expiration on June 30, 2025, of the PILOT Schedule set forth in Exhibit “A” hereto. In the event of a termination of the Agency’s interest in the Project Facility, the Company's payments due hereunder shall be pro-rated to the extent necessary to allow the Municipality to issue a supplemental tax bill based upon the Agency's transfer of ownership or control of the Project Facility to the Company, and the loss of the Agency's tax exemption on the said Project Facility.

(b) Conflict. In the event of a conflict between this Agreement or any of its terms on the one hand, and the Lease Agreement or any other Project documents on the other hand, the provisions most favorable to the Agency shall govern. The Agency and the Company agree that the Agency’s participation in the Project is for the benefit of the Company and that the Municipality must receive payments from the Company hereunder, during the entire term of this Agreement and/or the Agency’s ownership or control of the Project Facility.

Section 5.02. Company Acts

Where the Company is required to do or accomplish any act or thing hereunder, the Company may cause the same to be done or accomplished with the same force and effect as if done or accomplished by the Company.

Section 5.03. Amendment of Agreement

This Agreement may not be amended, changed, modified or altered unless such amendment, change, modification or alteration is in writing and signed by the Municipality, the Agency, and the Company.

Section 5.04. Notices

All notices, certificates or other communications hereunder shall be in writing, shall be sufficiently given, and shall be deemed given when (a) sent to the applicable address stated below by registered or certified mail, return receipt requested, and actually received by the intended recipient or by overnight courier or such other means as shall provide the sender with documentary evidence of such delivery, or (b) delivery is refused by the addressee as evidenced by the affidavit of the person who attempted to effect such delivery. The addresses to which notices, certificates,

and other communications hereunder shall be delivered are as follows:

- (a) To the Municipality:
City of Syracuse
City Hall, Room 300
233 East Washington Street
Syracuse, New York 13202
Attention: Mayor
Attention: Corporation Counsel

- (b) To the Agency:
City of Syracuse Industrial Development Agency
City Hall, Room 300
233 East Washington Street
Syracuse, New York 13202
Attention: Chairman
Attention: Corporation Counsel

- (c) To the Company:
706 North Clinton, LLC
c/o Emhoff Associates, LLC
126 North Salina Street
Syracuse, New York, 13202
Attention: Joshua Podkaminer, Manager

The Municipality, Agency, and Company may, by notice given hereunder to each of the others, designate any further or different addresses to which the subsequent notices, certificates or other communications to them shall be sent.

Section 5.05. Binding Effect

This Agreement shall inure to the benefit of, and shall be binding upon the Municipality, Agency, and Company, and their respective successors and assigns.

Section 5.06. Severability

If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Agreement shall be and remain in full

force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

Section 5.07. Counterparts

This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 5.08. Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the State of New York. Venue of any action or proceeding brought hereunder shall be in the State or Federal Courts located in Onondaga County, New York.

Section 5.09. Assignment

This Agreement may not be assigned by the Company without the prior written consent of the Municipality and Agency.

[No Further Text – Signature Pages Follows]

IN WITNESS WHEREOF, the Municipality, Agency, and Company have caused this Agreement to be executed in their respective names on the date first above written.

Attest

CITY OF SYRACUSE

By: *John P. Copanas*
John P. Copanas, City Clerk

By: *Stephanie A. Miner*
Stephanie A. Miner, Mayor

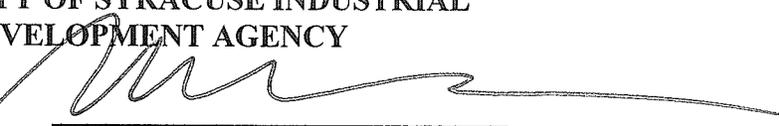
STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:

On this 28th day of July, 2014, before me personally came Stephanie A. Miner, Mayor of the City of Syracuse, with whom I am personally acquainted, who, being by me duly sworn, did depose and say: that she resides in the City of Syracuse, New York; that she is Mayor of the City of Syracuse, the corporation described in and which executed the within instrument; and that she signed said instrument as Mayor of said City of Syracuse by like authority.

Christine Enright
Notary Public

CHRISTINE ENRIGHT
Notary Public in the State of New York
Qualified in Onondaga County
No. 01EN5039029
My Commission Expires 2/13/15

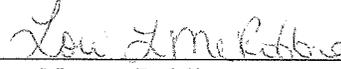
CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY

By: 

William M. Ryan, Chairman

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

On the 29th day of July, 2014, before me the undersigned, a Notary Public in and for said state, personally appeared William M. Ryan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or he person upon behalf of which the individual acted, executed the instrument.



Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC505591
Commission Expires on Feb. 12, 20 15

706 NORTH CLINTON, LLC

By: 
Joshua Podkaminer, Manager

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

On the 30th day of July, in the year 2014, before me the undersigned, a notary public in and for said state, personally appeared Joshua Podkaminer, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or he person upon behalf of which the individual acted, executed the instrument.


Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18

ACKNOWLEDGEMENT BY

706 NORTH CLINTON, LLC

706 North Clinton, LLC, (the “Company”) hereby acknowledges receipt and review of this Agreement, and consents to, and approves of, the terms and provisions contained herein.

IN WITNESS WHEREOF, the Company has caused this Acknowledgment to be executed in its name by its duly authorized representative, dated as of July 1, 2014.

706 North Clinton, LLC

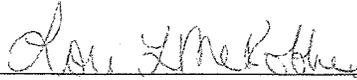
By:



Joshua Podkaminer, Manager

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

On the 30th day of July, in the year 2014, before me the undersigned, a notary public in and for said state, personally appeared Joshua Podkaminer, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or he person upon behalf of which the individual acted, executed the instrument.



Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18

EXHIBIT "A"

PILOT SCHEDULE

706 NORTH CLINTON, LLC PILOT Schedule		
Year	Assessment	Payment
1	$\$820,000 \times \text{tax rate}^*$	-
2	$\$820,000 \times \text{tax rate}$	-
3	$\$820,000 \times \text{tax rate}$	-
4	$\$820,000 \times \text{tax rate}$	-
5	$\$820,000 \times \text{tax rate}$	-
6	$\$820,000 \times \text{tax rate}$	-
7	$\$820,000 \times \text{tax rate}$	-
8	$[(\text{full assessment} - \$820,000) \times .25] + (\$820,000 \times \text{tax rate})$	-
9	$[(\text{full assessment} - \$820,000) \times .50] + (\$820,000 \times \text{tax rate})$	-
10	$[(\text{full assessment} - \$820,000) \times .75] + (\$820,000 \times \text{tax rate})$	-

*tax rate = Combined Syracuse City, County, School District and Water District Real Property Tax Rate in effect for each year, or portion thereof, covered by the Agreement

EXHIBIT "B"

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Block "C" of the former Village of Salina and a portion of the former Oswego Canal in said City and being more particularly bounded and described as follows:

BEGINNING at the intersection of the monumented easterly street line of North Clinton Street with the monumented southerly street line of Spencer Street; thence North 61 deg. 33 min. 00 sec. East along said southerly street line, a distance of 237.19 feet to a point of curvature; thence along the westerly highway boundary of Parcel Nos. 79, 78, & 173 of Map No. 75R-1 and Parcel No. 142 of Map No. 74, in part by each, as appropriated by N.Y.S.D.O.T. for Interstate Route 81 (S.H. 505-3-2.3) the following five (5) courses and distances: 1) along the arc of a tangent curve to the right having a radius of 20.00 feet, length of 22.91 feet and chord of South 85 deg. 27 min. 09 sec. East, 21.68 feet to a point of tangency; thence 2) South 52 deg. 47 min. 40 sec. East, a distance of 63.53 feet to a point of curvature; thence 3) along the arc of a tangent curve to the right having a radius of 257.00 feet, length of 108.64 feet and chord of South 40 deg. 31 min. 27 sec. East, 107.84 feet to a point; thence 4) South 62 deg. 08 min. 26 sec. West, a distance of 1.02 feet to a point; and 5) South 26 deg. 33 min. 58 sec. East, a distance of 210.53 feet to its intersection with the division line between the lands now or formerly of Greif Bros. Corporation as described in Book 3243 of Deeds at Page 195 on the north and the lands now or formerly of Expressway Properties, LLC as described in Book 4100 of Deeds at Page 50 on the south; thence the following three (3) courses and distances along said division line: 1) South 59 deg. 22 min. 10 sec. West, a distance of 157.07 feet to a point; thence 2) South 28 deg. 04 min. 00 sec. East, a distance of 19.18 feet to a point on a curve; and 3) along the arc of a non-tangent curve to the left having a radius of 320.00 feet, length of 197.96 feet and chord of South 18 deg. 57 min. 26 sec. West, 194.82 feet to its intersection with the aforementioned easterly street line of North Clinton Street, said point being North 28 deg. 04 min. 00 sec. West, along said easterly street line, 32.00 feet from its intersection with the northerly street line of West Division Street; thence North 28 deg. 04 min. 00 sec. West, along said easterly street line, a distance of 542.85 feet to the point of beginning, containing 2.866 acres of land, more or less.

13



NYS DEPARTMENT OF TAXATION & FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES

RP-412-a (1/95)

INDUSTRIAL DEVELOPMENT AGENCIES
APPLICATION FOR REAL PROPERTY TAX EXEMPTION
(Real Property Tax Law, Section 412-a and General Municipal Law, Section 242)

RECEIVED
AUG 11 2014
OFFICE OF ASSESSMENT

1. INDUSTRIAL DEVELOPMENT AGENCY (IDA)

Name City of Syracuse Industrial Dev. Agency
Street 333 West Washington Street
City Syracuse
Telephone no. Day (315) 435-3275
Evening () N/A
Contact Ben Walsh
Title Executive Director

2. OCCUPANT (IF OTHER THAN IDA)

(If more than one occupant, attach separate listing)

Name 706 North Clinton, LLC
Street 126 North Salina Street
City Syracuse
Telephone no. Day () 315 476-7917
Evening () _____
Contact J. Andrew Breuer
Title Manager

3. DESCRIPTION OF PARCEL

- a. Assessment roll description (tax map no./roll year) 118.-04-01.0 / 2014
- b. Street address 706-16 North Clinton Street
- c. City, Town or Village Syracuse
- d. School District Syracuse
- e. County Onondaga
- f. Current assessment \$820,000
- g. Deed to IDA (date recorded; liber and page) N/A Straight Lease Transaction

4. GENERAL DESCRIPTION OF PROPERTY (if necessary, attach plans or specifications)

- a. Brief description (include property use) 56,600 sq ft parcel, demolition of 20,000 sq ft of deteriorated in deteriorated industrial space, rehab of 36,600 sq ft into class A office space.
- b. Type of construction Masonry
- c. Square footage 36,600 after partial dem
- d. Total cost \$8,136,400.00
- e. Date construction commenced _____
- f. Projected expiration of exemption (i.e. date when property is no longer possessed, controlled, supervised or under the jurisdiction of IDA) _____

5. SUMMARIZE AGREEMENT (IF ANY) AND METHOD TO BE USED FOR PAYMENTS TO BE MADE TO MUNICIPALITY REGARDLESS OF STATUTORY EXEMPTION

(Attach copy of the agreement or extract of the terms relating to the project).

- a. Formula for payment see attached PILOT Agreement

- b. Projected expiration date of agreement June 30, 2025

c. Municipal corporations to which payments will be made

	Yes	No
County _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Town/City _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Village _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>
School District _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>

d. Person or entity responsible for payment

Name 706 North Clinton, LLC
 Title _____
 Address 26 North Salina Street
Syracuse, NY

e. Is the IDA the owner of the property? Yes No (check one)
If "No" identify owner and explain IDA rights or interest in an attached statement.

Telephone 315 476-7917

6. Is the property receiving or has the property ever received any other exemption from real property taxation? (check one) Yes No

If yes, list the statutory exemption reference and assessment roll year on which granted:
exemption _____ assessment roll year _____

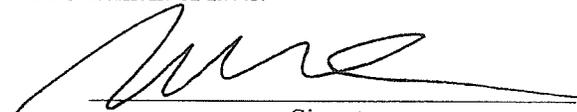
7 A copy of this application, including all attachments, has been mailed or delivered on 8/1/14 (date) to the chief executive official of each municipality within which the project is located as indicated in Item 3.

CERTIFICATION

I, William M. Ryan, Chairman of _____ of _____
Name Title
City of Syracuse Industrial Development Agency hereby certify that the information
Organization

on this application and accompanying papers constitutes a true statement of facts.

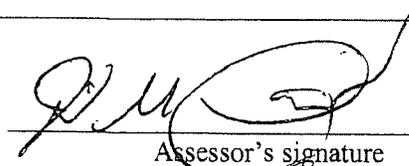
8/11/14
Date


Signature

FOR USE BY ASSESSOR

1. Date application filed _____
2. Applicable taxable status date _____
- 3a. Agreement (or extract) date _____
- 3b. Projected exemption expiration (year) _____
4. Assessed valuation of parcel in first year of exemption \$ _____
5. Special assessments and special as valorem levies for which the parcel is liable:

8/11/14
Date


Assessor's signature

14

City of Syracuse

Ord. No. 49 - 2014

CITY CLERK'S OFFICE

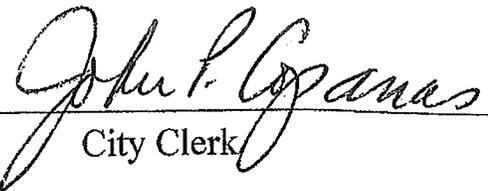
I, JOHN P. COPANAS, City Clerk of the City of Syracuse, New York do hereby certify that the attached is a true copy of an ORDINANCE:

Adopted by the Common Council on

January 13, 2014

Signed by the Mayor on

January 14, 2014


City Clerk

TO:

Mayor
Assessment Commissioner
Aviation Commissioner
Board of Elections
Bureau of Accounts
Citizen Review Board
City Auditor
City School District
Code Enforcement
Neighborhood and Business Development
Finance Commissioner
Corporation Counsel
United States Congressperson
Governor of New York State
New York State Senate
New York State Assembly
New York State Senator
Onondaga County Legislature

Management & Budget Director
Parks & Recreation Commissioner
Personnel & Labor Relations Dir.
Police Chief
Public Works Commissioner
Public Works/Bookkeeper
Purchase Department
Real Estate Division
Research Director
Water Department
Zoning Administration
United States Senator
Department of Engineering
Finance/Treasury
Finance (Water Bureau)
Fire Chief
Grants Management Director
Board of Education

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**ORDINANCE AUTHORIZING AN AGREEMENT
BETWEEN THE CITY OF SYRACUSE, THE CITY
OF SYRACUSE INDUSTRIAL DEVELOPMENT
AGENCY AND 706 NORTH CLINTON, LLC FOR
ANNUAL PAYMENTS IN LIEU OF TAXES WITH
RESPECT TO THE PROPERTY LOCATED AT 706-
716 CLINTON STREET NORTH & SPENCER
STREET, SYRACUSE, NEW YORK**

BE IT ORDAINED, that the Mayor, on behalf of the City of Syracuse, be and she is hereby authorized to enter into a Payment in Lieu of Tax Agreement (the "*Agreement*") with the City of Syracuse Industrial Development Agency ("*SIDA*") and 706 North Clinton, LLC (the "*Company*") covering the property located at 706-716 Clinton Street North & Spencer Street for the Project at the property site that will consist of a \$8,136,400 renovation of a 56,575 sq. ft. of predominately vacant industrial building into Class A commercial office space; with payments in lieu of taxes under the Agreement to be calculated pursuant to the PILOT Schedule attached as Exhibit "A"; and

BE IT FURTHER ORDAINED, that the Agreement shall contain those terms and conditions that shall be determined by the Corporation Counsel to be in the best interest of the City of Syracuse, and that payments made thereunder will be shared with Onondaga County in the same proportion that real property tax revenues are shared.

EXHIBIT "A"

706 North Clinton, LLC (706-16 Clinton St N & Spencer St) PILOT Schedule		
Year	Assessment	Payment
1	$\$820,000 \times \text{tax rate}^*$	-
2	$\$820,000 \times \text{tax rate}^*$	-
3	$\$820,000 \times \text{tax rate}^*$	-
4	$\$820,000 \times \text{tax rate}^*$	-
5	$\$820,000 \times \text{tax rate}^*$	-
6	$\$820,000 \times \text{tax rate}^*$	-
7	$\$820,000 \times \text{tax rate}^*$	-
8	$[(\text{full assessment} - \$820,000) \times .25] + (\$820,000 \times \text{tax rate})$	-
9	$[(\text{full assessment} - \$820,000) \times .50] + (\$820,000 \times \text{tax rate})$	-
10	$[(\text{full assessment} - \$820,000) \times .75] + (\$820,000 \times \text{tax rate})$	-

*tax rate = Combined Syracuse City, County, School District and Water District Real Property Tax Rate in effect for each year, or portion thereof, covered by the Agreement

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**CONFIRMATION BY THE CHIEF EXECUTIVE OFFICER OF THE
CITY OF SYRACUSE OF PROPOSED ACTION BY THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**

WHEREAS, pursuant to an application submitted to the City of Syracuse Industrial Development Agency (the “**Agency**”) by 706 North Clinton, LLC (the “**Company**”), the members of the Agency adopted resolutions on December 17, 2013 (the “**Resolutions**”) whereby the Agency approved the undertaking of a Project (as defined herein) and the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law of the State of New York the “**GML**”) with respect to a project (the “**Project**”) consisting of the following: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the “**Land**”); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the “**Facility**”); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the “**Financial Assistance**”); (C) the appointment of the Company as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Company has requested the Agency lease the Project Facility to the Company; and

WHEREAS, the Agency has agreed to the lease the Project Facility to the Company subject hereto;

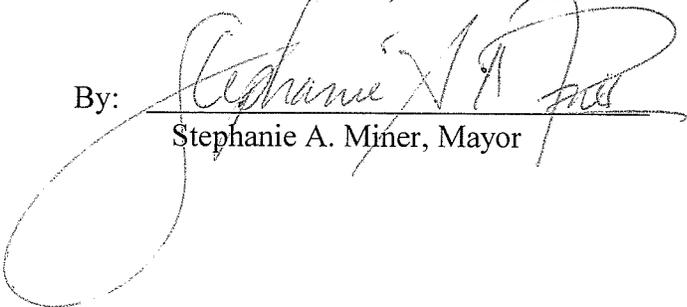
WHEREAS, in the Resolutions the members of the Agency found, after the public hearing required by section 859-a of the GML, that undertaking the Project will serve the public purposes of Article 18-A of the GML by promoting, creating and/or preserving private sector jobs, promoting economic development and advancing the job opportunities, health, general prosperity and economic welfare of the people of the State and improving their recreational opportunities, prosperity and standard of living (the “**Finding**”); and

WHEREAS, subparagraph (c) of paragraph (2) of Section 862 of the GML requires that in certain instances where the Agency makes a Finding relative to a project that involves a certain level of retail sales, prior to the Agency providing the approved Financial Assistance to the Project, the chief executive officer of the municipality for whose benefit the Agency was created shall confirm the proposed action of the Agency.

NOW THEREFORE, in my capacity as the Mayor and chief elected executive officer of the City of Syracuse, New York, I hereby confirm the proposed action of the Agency with respect to the Project as of the ___ day of July, 2014.

CITY OF SYRACUSE, NEW YORK

By:

A large, stylized handwritten signature in black ink, appearing to read 'Stephanie A. Miner', is written over a horizontal line. The signature is fluid and cursive, with a large loop at the end.

Stephanie A. Miner, Mayor

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**GENERAL CERTIFICATE OF THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**

This certificate is made in connection with the execution by the City of Syracuse Industrial Development Agency (the "**Agency**") of the Company Lease, the Agency Lease, the PILOT Agreement and any other document now or hereafter executed by the Agency (collectively, the "**Agency Documents**") with respect to a project (the "**Project**") undertaken at the request of 706 North Clinton, LLC (the "**Company**") consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the "**Facility**"); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the "**Financial Assistance**"); (C) the appointment of the Company as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

Capitalized terms used herein which are not otherwise defined herein and which are defined in the Agency Lease Agreement dated as of July 1, 2014 (the "**Agency Lease**"), between the Agency and the Company, and shall have the meanings ascribed to such terms in the Agency Lease except that, for purposes of this certificate, (A) all definitions with respect to any document shall be deemed to refer to such document only as it exists as of the date of this certificate and not as of any future date, and (B) all definitions with respect to any Person shall be deemed to refer to such Person only as it exists as of the date of this certificate and not as of any future date or to any successor or assign.

I, the undersigned Chairman of the Agency, Do Hereby Certify:

1. I am an officer of the Agency and am duly authorized to execute and deliver this certificate in the name of the Agency.

2. The Agency is an industrial development agency duly established under Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended (the "**Enabling Act**") and Chapter 641 of the Laws of 1979 of the State (said Chapter with the Enabling Act, the "**Act**") (a certified copy of Chapter 641 of the Laws of 1979 of the State is attached hereto as **Exhibit "A"**), and it is a corporate governmental agency constituting a public benefit corporation of the State.

3. The Act empowers the Agency, among other things, to acquire, construct reconstruct, lease, improve, maintain, equip, sell and dispose of land and any building or other improvement, and all real and personal property, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, recreation or industrial facilities, including industrial pollution control facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the City of Syracuse and the State and to improve their standard of living. The Act further authorizes the Agency to lease any and all of its facilities on such terms and conditions as it deems advisable, to acquire, construct, lease, improve, and equip one or more projects as defined in the Act, to mortgage any or all of its facilities and to pledge the revenues and receipts from the sale or transfer of its facilities.

4. The Agency has full legal power and authority to own its property, conduct its business and execute, deliver, and perform its obligations under the Agency Documents and has taken all actions and obtained all approvals required in connection therewith by the Act and any other applicable laws and regulations, and no legislation has been enacted affecting the powers or authority of the Agency to execute and deliver the Agency Documents, affecting the financing of the Project, or affecting the validity thereof or of the Agency Documents, or contesting the existence and powers of the Agency or the appointment of the members and officers of the Agency to their respective offices.

5. Pursuant to the Act, the governing body of the City of Syracuse, New York, for whose benefit the Agency was established, duly filed or caused to be filed within six (6) months after the effective date of Chapter 641 of the Laws of 1979 of the State in the office of the Secretary of State of the State the Certificate of Establishment of the Agency pursuant to Section 926 of the New York General Municipal Law. The Certificate of Establishment of the Agency described in the preceding sentence also named the members and officers of the Agency as appointed by the Mayor of the City of Syracuse. Attached hereto as **Exhibit "B"** are certified copies of said Certificates of Establishment and copies of the Certificates of Appointment relating to all of the current members of the Agency, who are:

William M. Ryan	Chairman
C. Catherine Richardson	Vice Chairman
Steven P. Thompson	Secretary
Donald Schoenwald	Treasurer
Pamela Hunter	Member

6. Attached hereto as **Exhibit "C"** is a true, correct, and complete copy of the by-laws of the Agency, together with all amendments thereto or modifications thereof; and said by-laws as so amended and modified are in full force and effect in accordance with their terms as of the date of this certificate.

7. That a resolution determining that the acquisition, reconstruction, renovation and equipping of the Project constitutes a Project and describing the financial assistance in

connection therewith and authorizing a public hearing (the “*Public Hearing Resolution*”) was adopted by the Agency on November 19, 2013 and remains in full force and effect and has not been rescinded, repealed or modified. A copy of the Public Hearing Resolution is attached hereto at **Exhibit “D.”**

8. Attached hereto as **Exhibit “E”** is proof of publication of a notice of the public hearing with respect to the Project (the “*Public Hearing*”), required pursuant to Section 859-a of the Act and held on December 17, 2013, and proof of mailing of notice thereof pursuant to Section 859-a of the Act to the chief executive officers of the affected tax jurisdictions (as defined in Section 854(16) of the Act) on November 25, 2013.

9. That a resolution classifying the Project as an Unlisted Action pursuant to SEQRA, declaring the Agency as Lead Agency for the purposes of an uncoordinated review and determining that the action will not have a significant effect on the environment (the “*SEQRA Resolution*”) was adopted by the Agency on December 17, 2013 and remains in full force and effect and has not been rescinded, repealed or modified. A copy of the SEQRA Resolution is attached hereto at **Exhibit “F.”**

10. That a resolution approving the undertaking of the acquisition, renovation, reconstruction and equipping of the Project, appointing the Company as agent of the Agency for the purpose of the acquisition, reconstruction, renovation and equipping of the Project, and authorizing the execution and delivery of an agreement between the Agency and the Company (the “*Inducement Resolution*”) was adopted by the Agency on December 17, 2013 and remains in full force and effect and has not been rescinded, repealed or modified. A copy of the Inducement Resolution is attached hereto at **Exhibit “G.”**

11. That a resolution approving a payment in lieu of tax schedule and authorizing the execution and delivery of certain documents by the Agency in connection with the Project was adopted by the Agency on December 17, 2013 (the “*PILOT Resolution*”) and remains in full force and effect and has not been rescinded, repealed or modified. A copy of the PILOT Resolution is attached hereto at **Exhibit “H”**.

12. That a resolution authorizing the execution and delivery of certain documents by the Agency in connection with the Project was adopted by the Agency on December 17, 2013 (the “*Final Approving Resolution*”) and remains in full force and effect and has not been rescinded, repealed or modified. A copy of the Final Approving Resolution is attached hereto at **Exhibit “I”**.

13. The execution, delivery and performance of all Agency Documents, certificates and documents required to be executed, delivered and performed by the Agency in order to carry out, give effect to and consummate the transactions contemplated by the Agency Documents have been duly authorized by all necessary action of the Agency, and the Agency Documents have been duly authorized, executed and delivered. The Agency Documents are in full force and effect on and as of the date hereof, and no authority or proceeding for the execution, delivery or performance of the Agency Documents has been materially amended, repealed, revoked or rescinded; and no event or

circumstance has occurred or exists which constitutes, or with the giving of notice or the passage of time would constitute, a default on the part of the Agency under the Agency Documents.

14. The execution, delivery, and performance of the Agency Documents, the consummation of the transactions therein contemplated and compliance with the provisions of each do not and will not (a) violate the Act or the by-laws of the Agency, (b) require consent (which has not heretofore been received) under or result in a breach or default of any credit agreement, purchase agreement, indenture, deed of trust, commitment, guaranty, lease, or other agreement or instrument to which the Agency is a party or by which the Agency may be bound or affected, or (c) conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction, or decree of any government, governmental instrumentality, or court, domestic or foreign, having jurisdiction over the Agency or any of its Property.

15. The Agency has not received written notice that any event of default has occurred and is continuing, or that any event has occurred which with the lapse of time or the giving of notice or both would constitute an event of default, by any party to the Agency Documents.

16. To the best of my knowledge, there is no action, suit, proceeding or investigation at law or in equity, before or by any court, public board or body of the United States of America or the State of New York, pending or, to my knowledge, threatened against or affecting the Agency (or to my knowledge any basis therefor), (a) wherein an unfavorable decision or finding would adversely affect (i) the Inducement Resolution or Final Approving Resolution, the Company Lease, the Agency Lease or the other Agency Documents or (ii) the existence or organization of the Agency, or (iii) restrain or enjoin the financing, renovation or construction of the Project or the performance by the Agency of the Agency Documents; or (b) in any manner questioning the proceedings or authority of the financing of the Project, or affecting the validity thereof or of the Agency Documents, or contesting the existence and powers of the Agency or the appointment of the directors and officers of the Agency to their respective offices.

17. July 30, 2014 has been duly designated as the date for the Closing.

18. The Agency has complied with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to the Closing Date.

19. In accordance with the Act, the Agency has determined:

(a) to assist the Company's acquisition, reconstruction, renovation and equipping of the Project Facility;

(b) to grant the Financial Assistance to the Company; and

(c) to designate the Company as the Agency's agent for the acquisition, reconstruction, renovation and equipping of the Project Facility.

20. That I did officially cause all certificates necessary for the financing and included in the Official Transcript of Closing, to be executed, as required, in the name of the Agency by the signing of each of such certificates with the signature of the (Vice) Chairman of the Agency.

21. That I did officially cause the following Agency Documents to be executed in the name of the Agency by the signing of each of such Agency Documents with the signature of the William M. Ryan, Chairman of the Agency:

(a) a Company Lease from the Company to the Agency pursuant to which the Company agrees to lease the Land and the Facility to the Agency;

(b) an Agency Lease from the Agency to the Company pursuant to which the Agency agrees to sublease the Project Facility to the Company; and

(c) the PILOT Agreement between the Agency and the Company.

22. No member, officer or employee of the Agency having power to (i) negotiate, prepare, authorize or approve any of the Agency Documents, (ii) audit bills or claims under any of the Agency Documents, or (iii) appoint an officer or employee who has any of the powers or duties set forth in (i) or (ii):

(a) directly or indirectly owns any stock of the Company;

(b) is a partner, director or employee of the Company;

(c) is related to the Company within the meaning of Section 800.3(a) of the New York General Municipal Law.

No member, officer, or employee of the Agency has publicly disclosed, in a writing included as part of the official minutes of the Agency, any Interest (as defined in Section 800.3 of the New York General Municipal Law), direct or indirect, in the Developer.

(SIGNATURE PAGE TO FOLLOW)

WITNESS, as of the 1st day of July, 2014.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
William M. Ryan, Chairman

EXHIBIT "A"

**CHAPTER 641 OF THE LAWS OF 1979
OF THE STATE OF NEW YORK**

LAWS OF NEW YORK, 1979

CHAPTER 641

AN ACT to amend the general municipal law, in relation to creating and establishing for the city of Syracuse industrial development agency and, providing for its functions and duties

Became a law July 11, 1979, with the approval of the Governor. Passed on Home Rule request pursuant to Article IX, section 2 (b) (2) of the Constitution, by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general municipal law is amended by adding a new section nine hundred twenty-six to read as follows:

§ 926. *City of Syracuse industrial development agency. (a) For the benefit of the city of Syracuse and the inhabitants thereof, an industrial development agency, to be known as the CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY, is hereby established for the accomplishment of any or all of the purposes specified in title one of article eighteen-A of this chapter. It shall constitute a body corporate and politic, and be perpetual in duration. It shall consist of five members who shall be appointed by the mayor of the city of Syracuse and its chairman shall be designated by such mayor. It shall have the powers and duties now or hereafter conferred by title one of article eighteen-A of this chapter upon industrial development agencies. It shall organize in a manner prescribed by and be subject to the provisions of title one of article eighteen-A of this chapter. The agency, its members, officers and employees, and its operations and activities shall in all respects be governed by the provisions of title one of article eighteen-A of this chapter.*

(b) The city shall have the power to make, or contract to make grants or loans, including but not limited to grants or loans of money, to the agency in such amounts, upon such terms and conditions and for such period or periods of time as in the judgment of the city and the agency are necessary or appropriate for the accomplishment of any of the purposes of the agency.

§ 2. This act shall take effect immediately.

EXHIBIT "B"

**AGENCY'S CERTIFICATE OF ESTABLISHMENT
AND
CERTIFICATES OF APPOINTMENT OF CURRENT MEMBERS**

CERTIFICATE OF THE CITY OF SYRACUSE
INDUSTRIAL DEVELOPMENT AGENCY

Pursuant to Article 18-A of the General Municipal Law, Lee Alexander, Mayor of the City of Syracuse, certifies as follows:

- 1) The name of the industrial development agency herein is the City of Syracuse Industrial Development Agency.
- 2) Chapter 641 of the Laws of 1979, the special act of the New York State Legislature establishing the City of Syracuse Industrial Development Agency, was adopted by the New York State Legislature on June 16, 1979 and signed by the Governor on July 18, 1979.
- 3) The names of the Chairman and the Members, respectively, of the City of Syracuse Industrial Development Agency and their terms of office are as follows:

(a)	Frank L. Canino	Chairman
	David M. Garber	Member
	David S. Michel	Member
	Erwin G. Schultz	Member
	Irwin L. Davis	Member

- (b) The term of office of the Chairman and of the Members of the City of Syracuse Industrial Development Agency is at the pleasure of the Mayor and continues until a successor is appointed and has qualified.

- 4) The facts establishing the need for the creation of a City of Syracuse Industrial Development Agency are as follows:

Expansion of its industrial-commercial base is essential to the City of Syracuse, especially in a time of mounting economic pressures. To achieve this goal of expansion, the City has designed a comprehensive economic development program, requiring an Industrial Development Agency.

The existing potential for economic development will be augmented by the financial incentives of an Industrial Development Agency. Various City agencies and departments, such as the Department of Community Development and the Office of Federal and State Aid Coordination will interface with the Syracuse Industrial Development Agency to strengthen the business and industrial climate of the community.

Access to the Department of Community Development will make available to the Syracuse Industrial Development Agency an array of staff assistance, technical expertise, and various other development services. The City's Office of Federal and State Aid Coordination will provide assistance to it in locating, analyzing, and obtaining various forms of federal and state assistance and participation.

STATE OF NEW YORK
DEPARTMENT OF STATE

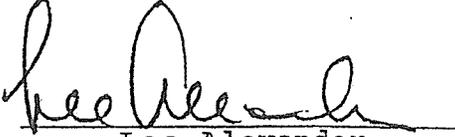
FILED JUL 20 1979

Bill Paterson

Governor of State

The Syracuse Industrial Development Agency, in combination with, and utilizing these and other resources, will greatly enhance the City's ability to compete for, and successfully attract, the commercial and industrial enterprises necessary for continued economic health and growth.

July 20, 1979


Lee Alexander
Mayor

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED JUL 20 1979


Secretary of State

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CITY OF SYRACUSE
DEPARTMENT OF LAW



OFFICE OF THE MAYOR

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DEPARTMENT OF STATE

Stephanie A. Miner, Mayor

CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

Pursuant to Article 18-A of the General Municipal Law of the State of New York, Stephanie A. Miner, Mayor of the City of Syracuse, hereby certifies the appointment of the following person as a Member and officer of the City of Syracuse Industrial Development Agency:

Mr. William Ryan

- Member/Chairman

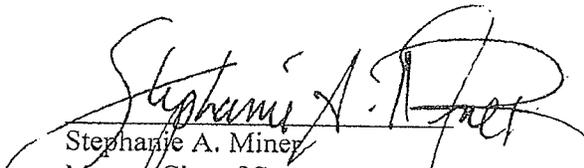
The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency:

Mr. Irwin Davis

-Member/Chairman

No Member or Officer of the City of Syracuse Industrial development Agency shall receive any compensation for the discharge of their duties as Member or Officer of the Agency, but shall be entitled to necessary expenses incurred in the discharge of their duties as such Member or Officer.

The appointment herein set forth shall be effective as of January 15, 2010.


Stephanie A. Miner
Mayor, City of Syracuse



OFFICE OF THE MAYOR

Stephanie A. Miner

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CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

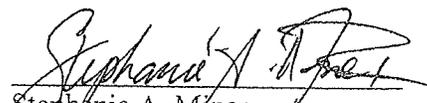
Pursuant to Article 18-A of the General Municipal Law of the State of New York,
Stephanie A. Miner, Mayor of the City of Syracuse, hereby certifies the appointment of
the following person as ~~a Member~~ of the City of Syracuse Industrial Development
Agency: *AN OFFICER*

M. Catherine Richardson

- Member/Vice Chair

No Member or Officer of the City of Syracuse Industrial development Agency shall
receive any compensation for the discharge of their duties as Member or Officer of the
Agency, but shall be entitled to necessary expenses incurred in the discharge of their
duties as such Member or Officer.

The appointment herein set forth shall be effective as of February 12, 2010.


Stephanie A. Miner
Mayor, City of Syracuse



OFFICE OF THE MAYOR

Stephanie A. Miner, Mayor

CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

Pursuant to Article 18-A of the General Municipal Law of the State of New York, Stephanie A. Miner, Mayor of the City of Syracuse, hereby certifies the appointment of the following person as a Member of the City of Syracuse Industrial Development Agency:

Mr. Donald Schoenwald

- Member

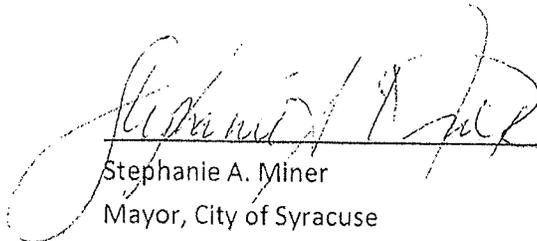
The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency:

Mr. Kenneth Mokrzycki

- Member

No Member or Officer of the City of Syracuse Industrial Development Agency shall receive any compensation for the discharge of their duties as Member or Officer of the Agency, but shall be entitled to necessary expenses incurred in the discharge of their duties as such Member or Officer.

The appointment herein set forth shall be effective as of March 1, 2011.


Stephanie A. Miner
Mayor, City of Syracuse



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DEPARTMENT OF STATE

OFFICE OF THE MAYOR

Stephanie A. Miner, Mayor

CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

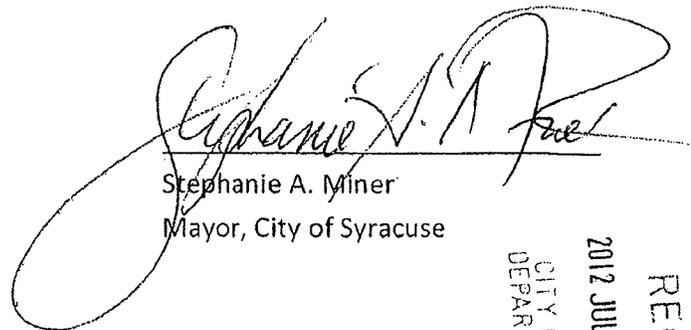
Pursuant to Article 18-A of the General Municipal Law of the State of New York, Stephanie A. Miner, Mayor of the City of Syracuse, hereby certifies the appointment of the following person as a Member of the City of Syracuse Industrial Development Agency:

Ms. Pamela J. Hunter

- Member

No Member or Officer of the City of Syracuse Industrial Development Agency shall receive any compensation for the discharge of their duties as Member or Officer of the Agency, but shall be entitled to necessary expenses incurred in the discharge of their duties as such Member or Officer.

The appointment herein set forth shall be effective as of July 5, 2012.



Stephanie A. Miner
Mayor, City of Syracuse

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DEPARTMENT OF LAW



OFFICE OF THE MAYOR

Stephanie A. Miner, Mayor

**CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**

Pursuant to Article 18-A of the General Municipal Law of the State of New York, Stephanie A. Miner, Mayor of the City of Syracuse, hereby certifies the appointment of the following person as a Member of the City of Syracuse Industrial Development Agency:

Mr. Steve Thompson - Member/Secretary

The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency:

Mr. John Gamage - Member/Secretary

No Member or Officer of the City of Syracuse Industrial Development Agency shall receive any compensation for the discharge of their duties as Member or Officer of the Agency, but shall be entitled to necessary expenses incurred in the discharge of their duties as such Member or Officer.

The appointment herein set forth shall be effective as of January 6, 2014.

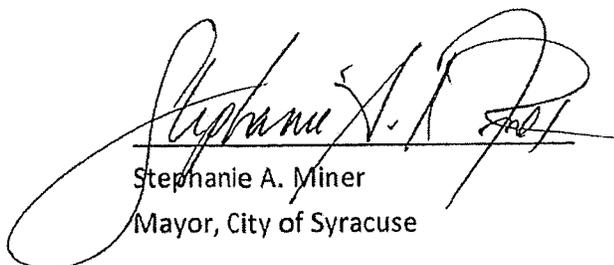

Stephanie A. Miner
Mayor, City of Syracuse

EXHIBIT "C"

AGENCY'S BY-LAWS

**BY-LAWS OF
THE CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY
(as amended August 18, 2009)**

Article I

THE AGENCY

Section 1. Name

The name of the agency shall be "City of Syracuse Industrial Development Agency", and it shall be referred to in these by-laws as the Agency.

Section 2. Seal

The seal of the Agency shall be in such form as may be determined by the members of the Agency.

Section 3. Office

The principal office of the Agency shall be located in the City of Syracuse, New York, County of Onondaga, and State of New York. The Agency may have such other offices at such other places as the members of the Agency may, from time to time, designate by resolution.

Article II

MEMBERS

Section 1. Members

(a) There shall be five members of the Agency. All references in these by-laws to members shall be references to Members of the Agency. The persons designated in the certificates of appointment filed in the office of the Secretary of State as members of the Agency and their successors in office and such other persons as may, from time to time, be appointed as

Members of the Agency by the Mayor of the City of Syracuse, or by special act of the Legislature, shall constitute all the members.

(b) Members shall hold office at the pleasure of the Mayor and shall continue to hold office until his or her successor is appointed and has qualified. The Mayor may remove any Member at his discretion, with or without cause.

(c) Upon the resignation or removal of a Member, a successor shall be selected by the Mayor.

(d) Members may resign at any time by giving written notice to the Mayor and to the Chairman of the Agency. Unless otherwise specified in the notice the resignation shall take effect upon receipt of the notice by the Chairman or the Mayor. Acceptance of the resignation shall not be necessary to make it effective.

Section 2. Meeting of the Members

(a) The Annual Meeting of the members shall be held on such date or dates as shall be fixed, from time to time, by the Members of the Agency. The first Annual Meeting of Members shall be held on a date within twelve (12) months after the filing of the Certificate of the Agency with the Secretary of State as required by General Municipal Law §856 (l) (a). Each successive Annual Meeting of Members shall be held on a date not more than twelve (12) months following the preceding Annual Meeting of Members.

(b) Regular meetings of the Agency may be held at such time and place as, from time to time, may be determined by the Members.

(c) Upon the written request of the Mayor, the Chairman or two (2) Members of the Agency, the Chairman of the Agency shall call a special meeting of the Members. Special meetings may be held on such date or dates as may be fixed in the call for such special meetings.

The call for a special meeting may be personally delivered to each Member of the Agency or may be mailed to the business or home address of such Member. A waiver of notice may be signed by any Member failing to receive a proper notice.

Section 3. Procedure at Meetings of Members

(a) The Chairman shall preside over the meetings of the Agency. In the absence of the Chairman, the Vice-Chairman shall preside. In the absence of both the Chairman and Vice-Chairman, any Member directed by the Chairman may preside.

(b) At all meetings of Members, a majority of the Members of the Agency shall constitute a quorum for the purpose of transacting business. If less than a quorum is present for any meeting, the Members then present may adjourn the meeting to such other time or until a quorum is present. Except to the extent provided for by law, all actions shall be by a majority of the votes cast, provided that the majority of the votes cast shall be at least equal to a quorum.

(c) When determined by the Agency that a matter pending before it is confidential in nature, it may, upon motion, establish an executive session and exclude any non-member from such session.

(d) Order of business

At all meetings of the Agency, the following shall be the order of business:

- (1) Roll Call;
- (2) Proof of Notice of Meeting;
- (3) Reading and approval of the minutes of the previous meeting;
- (4) bills and communications;
- (5) Report of the Treasurer;
- (6) Reports of Committees;

- (7) Unfinished business;
- (8) New business;
- (9) Adjournment.

The order of business may be altered or suspended at any meeting by the Members of the Agency.

(e) All resolutions shall be in writing and shall be recorded in the journal of the proceedings of the Agency.

Article III

OFFICERS AND PERSONNEL

Section 1. Officers

The officers of the Agency shall be Chairman or Co-Chairman, Vice-Chairman, Secretary and Treasurer and such other offices as may be prescribed, from time to time, by the Agency. The Chairman or Co-Chairman and other officers shall be appointed by the Mayor of the City of Syracuse and may be removed with or without cause at his discretion. Each officer shall be a Member of the Agency during his or her term of office.

Section 2. Chairman or Co-Chairmen

The Chairman shall be chief executive officer of the Agency, and shall serve as an ex officio member of all duly constituted committees, shall supervise the general management and the affairs of the Agency, and shall carry out the orders and resolutions of the Agency. Except as otherwise authorized by resolution of the Agency, the Chairman shall execute (manually and by facsimile signature) all agreements, contracts, deeds, bonds, notes or other evidence of indebtedness and any other instruments of the Agency on behalf of the Agency. The Mayor may from time to time appoint two Co-Chairmen in place of the Chairman. During their term of office the Co-

Chairmen shall share equally the duties, rights, powers and responsibilities of the Chairman. The action of either Co-Chairman or execution (manually or by facsimile signature) by either Co-Chairman of any agreement, contract, deed, bond, note or other evidence of indebtedness or any other instrument of the Agency on behalf of the Agency shall have the same force and effect as such action or execution by the Chairman.

Section 3. Vice-Chairman

The Vice-Chairman shall have all the powers and functions of the Chairman or Co-Chairmen in the absence or disability of the Chairman or Co-Chairmen, as the case may be. The Vice-Chairman shall perform such other duties as the Members of the Agency shall prescribe or as delegated by the Chairman or Co-Chairmen.

Section 4. Secretary

The Secretary shall keep the minutes of the Agency, shall have the custody of the seal of the Agency and shall affix and attest the same to documents when duly authorized by the Agency, shall attest to the giving or serving of all notices of the Agency, shall have charge of such books and papers as the Members of the Agency may order, shall attest to such correspondence as may be assigned, and shall perform all the duties incidental to his office.

Section 5. Treasurer

The Treasurer shall have the care and custody of all the funds and securities of the Agency, shall deposit such funds in the name of the Agency, in such bank or trust company as the members of the Agency may elect, shall sign such instrument as may require the Treasurer's signature, but only with the approval of the Chairman or Co-Chairman, as the case may be, shall at all reasonable times exhibit the books and accounts of the Agency to the Mayor or any Member of

the Agency, and at the end of each fiscal year shall present an annual report setting forth in full the financial condition of the Agency.

Section 6. Additional Personnel

The Agency, with the consent of the Mayor, may appoint an Administrative or Executive Director to supervise the administration of the business and affairs of the Agency, subject to the direction of the Agency. The Agency may, from time to time, employ such other personnel as it deems necessary to execute its powers, duties and functions as prescribed by the New York State Industrial Development Agency Act (General Municipal Law, Article 18-A), as amended, and all other laws of the State of New York applicable thereto.

Section 7. Compensation of Chairman, Co-Chairmen, Members, Officers, and Other Personnel

The Chairman, Co-Chairmen, Members and Officers shall receive no compensation for their services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties. The compensation of other personnel, including the Administrative Director, shall be determined by the Members of the Agency.

Article IV

AMENDMENTS

Section 1. Amendments to By-Laws

These by-laws may be amended or revised, from time to time, by a two-third (2/3) vote of the Agency, but no such amendment or revision shall be adopted unless written notice of the proposed action shall have been given by mail to each Member and the Mayor at least ten (10) days prior to the date of the meeting at which it is proposed that such action be taken; provided, however,

that this provision and other provisions relating to the appointment, renewal and terms of office of Members and officers may be amended only with the prior written approval of the Mayor.

Article V

MISCELLANEOUS

Section 1. Sureties and Bonds

In case the Agency shall so require, any officer, employee or agent of the Agency shall execute to the Agency a bond in such sum and with such surety or sureties as the Agency may direct, conditioned upon the faithful performance of his or her duties to the Agency and including responsibility for negligence and for the accounting for all property, funds or securities of the Agency which may come into the hands of the officer, employee or agent.

Section 2. Indemnification

(a) Upon compliance by a Member or Officer of the Agency (including a former Member or Officer, the estate of a Member or Officer or a judicially appointed personal representative thereof) (referred to in this Section 2 collectively as "Member") with the provisions of subdivision (i) of this Section 2, the Agency shall provide for the defense of the Member in any civil action or proceeding, state or federal, arising out of any alleged act or omission which occurred or allegedly occurred while the Member was acting within the scope of the public employment or duties of such Member. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or at the behest of the Agency.

(b) Subject to the conditions set forth in paragraph (a) of this subdivision, the Member shall be entitled to be represented by private counsel of the Member's choice in any civil action or proceeding whenever the chief legal officer of the Agency or other counsel designated by the

Agency determines that a conflict of interest exists, or whenever a court, upon appropriate motion or otherwise by a special proceeding, determines that a conflict of interest exists and that the Member is entitled to be represented by counsel of the Member's choice, provided, however, that the chief legal officer or other counsel designated by the Agency may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such Members be represented by the same counsel. Reasonable attorneys' fees and litigation expenses shall be paid by the Agency to such private counsel from time to time during the pendency of the civil action or proceeding with the approval of a majority of the Members of the Agency eligible to vote thereon.

(c) Any dispute with respect to representation of multiple Members by a single counsel or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

(d) Where the Member delivers process and a written request for a defense to the Agency under subdivision (i) of this Section 2, the Agency shall take the necessary steps on behalf of the Member to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.

(e) The Agency shall indemnify and save harmless its Members in the amount of any judgment obtained against such Members in a State or Federal court, or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or claim arose occurred while the Member was acting within the scope of the Member's public employment or duties; provided further that in the case of a settlement, the duty to indemnify and save harmless shall be conditioned upon the approval of the amount of settlement by a majority of the Members of the Agency eligible to vote thereon.

(f) Except as otherwise provided by law, the duty to indemnify and save harmless prescribed by this Section 2 shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the Member seeking indemnification.

(g) Nothing in this subdivision shall authorize the Agency to indemnify or save harmless any Member with respect to punitive or exemplary damages, fines or penalties; provided, however, that the Agency shall indemnify and save harmless its Members in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that the Member, acting within the scope of the Member's public employment or duties, has, without willfulness or intent on the Member's part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of the State or of the United States.

(h) Upon entry of a final judgment against the Member, or upon the settlement of the claim, the Member shall serve a copy of such judgment or settlement, personally or by certified or registered mail within thirty (30) days of the date of entry or settlement, upon the Chairman and the chief administrative officer of the Agency; and if not inconsistent with the provisions of this Section 2, the amount of such judgment or settlement shall be paid by the Agency.

(i) The duty to defend or indemnify and save harmless prescribed by this Section 2 shall be conditioned upon: (i) delivery by the Member to the Chairman of the Agency and the chief legal officer of the Agency or to its chief administrative officer of a written request to provide for such Member's defense together with the original or a copy of any summons, complaint, process, notice, demand or pleading within ten (10) days after the Member is served with such document, and (ii) the full cooperation of the Member in the defense of such action or

proceeding and in defense of any action or proceeding against the Agency based upon the same act or omission, and in the prosecution of any appeal.

(j) The benefits of this Section shall inure only to Members as defined in subdivision (a) of this Section 2 and shall not enlarge or diminish the rights of any other party.

(k) This Section 2 shall not in any way affect the obligation of any claimant to give notice to the Agency under Section 10 of the Court of Claims Act, Section 880 of the General Municipal Law, or any other provision of law.

(l) The Agency is hereby authorized and empowered to purchase insurance from any insurance company created by or under the laws of the State, or authorized by law to transact business in the State, against any liability imposed by the provisions of this Section 2, or to act as a self-insurer with respect thereto. The provisions of this Section 2 shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

(m) All payments made under the terms of this Section 2, whether for insurance or otherwise, shall be deemed to be for a public purpose and shall be audited and paid in the same manner as other public charges.

(n) Except as otherwise specifically provided in this Section 2, the provisions of this Section 2 shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity to liability available to or conferred upon any Member of the Agency by, in accordance with, or by reason of, any other provision of State or Federal statutory or common law. The benefits under this Section 2 shall supplement, and be available in addition to, defense or indemnification protection conferred by any law or enactment. This Section 2 is intended to confer upon Members of the Agency all of the benefits of Section 18 of the Public Officers Law

and to impose upon the Agency liability for costs incurred under the provisions hereof and thereof.

Section 3. Fiscal Year

The fiscal year of the Agency shall be fixed by the Members, subject to the applicable law.

Section 4. Powers of the Agency

The Agency shall have all the powers of an Industrial Development Agency authorized by Article 18-A of the General Municipal Law and shall have the power to do all things necessary or convenient to carry out its purposes and exercise the powers authorized herein.

EXHIBIT "D"

PUBLIC HEARING RESOLUTION

RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on November 19, 2013, at 8:30 o'clock a.m. in the Common Council's Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

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

PRESENT: William M. Ryan, Donald Schoenwald, Esq., John Gamage

EXCUSED: M. Catherine Richardson, Esq., Pamela Hunter

The following persons were **ALSO PRESENT:** **Staff Present:** Ben Walsh, Susan Katzoff, Esq., Judith DeLaney, Debra Ramsey-Burns, Matthew Kerwin, Esq., Thomas Babilon, Esq.; **Others Present:** Andy Breuer, Aggie Lane, Josh Podkaminer, Jim Barr, Sarah Stephens, Zachary Forward, Esq.; **Media:** Rick Moriarty.

The following resolution was offered by John Gamage and seconded by Donald Schoenwald:

RESOLUTION DETERMINING THAT THE ACQUISITION, RECONSTRUCTION, RENOVATION AND EQUIPPING OF A COMMERCIAL FACILITY AT THE REQUEST OF THE COMPANY CONSTITUTES A PROJECT; DESCRIBING THE FINANCIAL ASSISTANCE IN CONNECTION THEREWITH; AND AUTHORIZING A PUBLIC HEARING

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "**Act**"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, for the purpose of promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to grant “financial assistance” (as defined in the Act) in connection with the acquisition, reconstruction and equipping of one or more “projects” (as defined in the Act); and

WHEREAS, by application dated November 8, 2013 (the “*Application*”), 706 North Clinton, LLC, or an entity to be formed (the “*Company*”), has requested the Agency undertake a project (the “*Project*”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the “*Land*”); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the “*Facility*”); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “*SEQRA*”), the Agency is required to make a determination with respect to the environmental impact of any “action” (as said quoted term is defined in SEQRA) to be taken by the Agency and the approval of the Project constitutes such an action; and

WHEREAS, the Agency has not yet made a determination under SEQRA; and

WHEREAS, the Agency has not approved undertaking the Project or granting the Financial Assistance; and

WHEREAS, the grant of Financial Assistance to the Project is subject to, among other things, the Agency finding after a public hearing pursuant to Section 859-a of the Act that the Project will serve the public purposes of the Act by promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State or increasing the overall number of permanent, private sector jobs in the State.

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency, as follows:

(1) Based upon the representations made by the Company to the Agency, the Agency makes the following findings and determinations:

(A) The Project constitutes a “project” within the meaning of the Act; and

(B) The Financial Assistance contemplated with respect to the Project consists of assistance in the form of exemptions from State and local sales and use taxation.

(2) The Agency hereby directs that pursuant to Section 859-a of the Act, a public hearing with respect to the Project and Financial Assistance shall be scheduled with notice thereof published, and such notice, as applicable, shall further be sent to affected tax jurisdictions within which the Project is located.

(3) The Secretary or the Executive Director of the Agency is hereby authorized to and may distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

(4) A copy of this Resolution shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

The question of the adoption of the foregoing Resolution was duly put to vote on a roll call, which resulted as follows:

	AYE	NAY
William Ryan	X	
Donald Schoenwald	X	
John Gamage	X	

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “*Agency*”) held on November 19, 2013, with the original thereof on file in my office, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

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 set my hand and affixed the seal of the Agency this 21 day of January, 2014.

City of Syracuse Industrial Development Agency



Steven P. Thompson, Secretary

(S E A L)

EXHIBIT "E"

**NOTICE OF PUBLIC HEARING WITH EVIDENCE OF PUBLICATION AND COPIES
OF LETTERS TO AFFECTED TAX JURISDICTIONS PURSUANT TO SECTIONS
859-a OF THE ACT**

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Section 859-a of the New York General Municipal Law, will be held by the City of Syracuse Industrial Development Agency (the "Agency") on the 17th day of December, 2013, at 8:30 o'clock a.m., local time, at 233 East Washington Street, Common Council Chambers, City Hall, Syracuse, New York, in connection with the following matter:

706 North Clinton, LLC, or an entity to be formed (the "Company"), has requested that the Agency undertake a project (the "Project") consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the "Land"); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the "Facility"); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the "Equipment" and together with the Land and the Facility, the "Project Facility"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the "Financial Assistance"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company shall be the initial owner or operator of the Project Facility.

The Agency will at the above-stated time and place hear all persons with views with respect to the proposed Financial Assistance to the Company, the proposed owner/operator, the location of the Project Facility and the nature of the Project.

A copy of the application filed by the Company with the Agency with respect to the Project, including an analysis of the costs and benefits of the Project, is available for public inspection during business hours at the office of the Agency located at 333 West Washington Street, Suite 130, Syracuse, New York.

Dated: November 25, 2013

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Honorable Stephanie A. Miner
Mayor, City of Syracuse
233 East Washington Street
Syracuse, New York 13202

2. Article Number

(Transfer from service label)

7012 0470 0000 2744 1647

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Honorable Joanne M. Mahoney
County Executive, Onondaga County
John Mulroy Civic Center, 14th Floor
421 Montgomery Street
Syracuse, New York 13202

2. Article Number

7012 0470 0000 2744 1647

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent
 M. Mahoney on med Addressee
- B. Received by (Printed Name) C. Date of Delivery
- D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type Express Mail
 Certified Mail Return Receipt for Merchandise
 Registered C.O.D.
 Insured Mail Restricted Delivery? (Extra Fee) Yes

**U.S. Postal ServiceTM
CERTIFIED MAILTM RECEIPT**
 (Domestic Mail Only, No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	

Postmark Here

Sent to Mayor
 Street, Apt. No., or PO Box No.
 City, State, ZIP+4

PS Form 3800, August 2006 See Reverse for Instructions

**U.S. Postal ServiceTM
CERTIFIED MAILTM RECEIPT**
 (Domestic Mail Only, No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	

Postmark Here

Sent to County Executive
 Street, Apt. No., or PO Box No.
 City, State, ZIP+4

The Post-Standard

PROOF OF PUBLICATION

State of New York, County of Onondaga ss: Pamela Gallagher, of the City of Syracuse, in said County, being duly sworn, doth depose and says: this person is the Principal Clerk in the office of THE POST-STANDARD, a public newspaper, published in the City of Syracuse, Onondaga County, New York and that the notice, is an accurate and true copy of the ad as printed in said newspaper, was printed and published in the regular edition and issue of said newspaper on the following days, viz.:

Advertiser: HISCOCK & BARCLAY LLP

Reference #: 0000477935

PO #: 3067492 (706 North Clinto

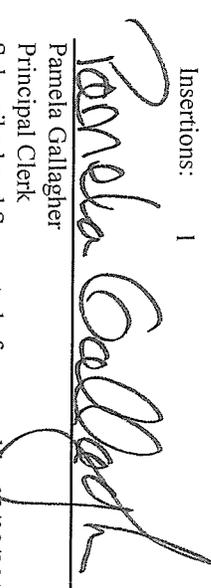
Product: Post-Standard-Full Run

Start Date: 12/03/2013

End Date: 12/03/2013

Insertions: 1

Run Dates: 12/03/2013


Pamela Gallagher

Principal Clerk

Subscribed and Sworn to before me, this 12/03/2013



NOTARY PUBLIC, ONONDAGA COUNTY, NY Commission Expires

HEIDI A. STEPHENS

Notary Public - State of New York

No. 01ST6290718

Qualified in Onondaga County

My Commission Expires: 10/7/2017

NOTE **VP** **FOUR**
HEARING NOTICE IS
HEREBY GIVEN that a
public hearing pursuant
to Section 859-A
of the New York General
Municipal Law, will
be held by the City of
Syracuse Industrial Development
Agency (the
"Agency") on the 17th
day of December
2013, at 8:30 o'clock
a.m., local time, at 233
East Washington
Street, Common Council
Chambers, City Hall,
Syracuse, New York, in
connection with the following
matter: 706
North Clinton, LLC, or
an entity to be formed
the "Company"), has
requested that the
Agency undertake a
project (the "project")
consisting of: (A)(i) the
acquisition of a leasehold
interest in approximately
56,600 square feet of
improved real property
located at 706-16
Clinton Street North
and Spencer Street
in the City of Syracuse,
New York (the "land");
(ii) the demolition of
approximately 20,000
square feet of deteriorated
industrial space; renovation
of the remaining 36,600
square feet into Class
A office space; remediation
of environmental issues;
landscaping and site
improvements, all located
on the land (the "Facility");
(iii) the acquisition and
installation thereon of
furniture, fixtures and
equipment (the "Equipment");
and together with the
land and the Facility, the
"Project Facility"; (B)
the granting of certain
financial assistance in
the form of exemptions
from real property tax,
State and local sales and
use tax and mortgage
recording tax (the "Financial
Assistance"); (C) the
appointment of the Company
or its designee as an
agent of the Agency in
connection with the
acquisition, construction
and equipping of the
Project Facility; and (D)
the lease of the Land
and Facility by the
Agency pursuant to a
lease agreement and
the acquisition of an
interest in the Equipment
pursuant to a bill of
sale from the Company
to the Agency; and the
sublease of the Project
Facility back to the
Company pursuant to a
sublease

party shall be the initial owner or operator of the Project Facility. The Agency will at the above-stated time and place hear all persons with views with respect to the proposed Financial Assistance to the Company, the proposed owner/operator, the location of the Project Facility and the nature of the Project. A copy of the application filed by the Company with the Agency with respect to the Project, including an analysis of the costs and benefits of the Project, is available for public inspection during business hours at the office of the Agency located at 333 West Washington Street, Suite 130, Syracuse, New York. Dated: November 25, 2013
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

EXHIBIT "F"

SEQRA RESOLUTION

SEQRA RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on December 17, 2013 at 8:30 o'clock a.m. in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

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

PRESENT: William Ryan, M. Catherine Richardson, Esq. Donald Schoenwald, Esq., John Gamage, Pamela Hunter

The following persons were **ALSO PRESENT:** **Staff Present:** Ben Walsh, Susan Katzoff, Esq., Judith DeLaney, Debra Ramsey-Burns, Matthew Kerwin, Esq., Thomas Babilon, Esq.; **Others Present:** Josh Podkaminer, David Holder, Tom Valenti, Eric Persons, Alex Marion, Bill Riley, Joanne Stevens, Louise Poindexter, Mike Irwin, mark McNamara; **Media:** Rick Moriarty, Ryan DeLaney

The following resolution was offered by Donald Schoenwald and seconded by M. Catherine Richardson:

RESOLUTION CLASSIFYING A CERTAIN PROJECT AS AN UNLISTED ACTION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT, DECLARING THE AGENCY LEAD AGENCY FOR PURPOSES OF AN UNCOORDINATED REVIEW THEREUNDER AND DETERMINING THAT THE ACTION WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "**Act**"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, for the purpose of promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, by application dated November 8, 2013 (the "**Application**"), 706 North Clinton, LLC, or an entity to be formed (the "**Company**"), has requested the Agency undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of

approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the “*Facility*”); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “*SEQRA*”), the Agency is required to make a determination with respect to the environmental impact of any “action” (as defined by SEQRA) to be taken by the Agency and the Project constitutes such an action; and

WHEREAS, to aid the Agency in determining whether the action described above may have a significant adverse impact upon the environment, the Company prepared an Environmental Assessment Form (the “*EAF*”), a copy of which is on file at the office of the Agency; and

WHEREAS, the Agency has examined and reviewed the EAF in order to classify the action and make a determination as to the potential significance of the action pursuant to SEQRA; and

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency, as follows:

(1) Based upon an examination of the EAF, the criteria contained in 6 NYCRR §617.7(c), and based further upon the Agency’s knowledge of the action and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings and determinations pursuant to SEQRA:

(a) The action constitutes an “Unlisted Action” (as said quoted term is defined in SEQRA);

(b) The Agency declares itself “Lead Agency” (as said quoted term is defined in SEQRA) with respect to an uncoordinated review pursuant to SEQRA;

(c) The action will not have a significant effect on the environment, and the Agency hereby issues a negative declaration pursuant to SEQRA, attached hereto as **Exhibit**

“A”, which shall be filed in the office of the Agency in a file that is readily accessible to the public.

(2) No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

(3) A copy of this Resolution, together with the attachment hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

(4) This Resolution shall take effect immediately. The Secretary of the Agency is hereby authorized and directed to distribute copies of this Resolution and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

The question of the adoption of the foregoing Resolution was duly put to vote on a roll call, which resulted as follows:

	<u>AYE</u>	<u>NAY</u>
William Ryan	X	
M. Catherine Richardson	X	
Donald Schoenwald	X	
John Gamage	X	
Pamela Hunter	X	

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “*Agency*”) held on December 17, 2013, with the original thereof on file in my office, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

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 set my hand and affixed the seal of the Agency this 24 day of January, 2014.

City of Syracuse Industrial Development Agency



Steven P. Thompson, Secretary

(S E A L)

EXHIBIT "A"

NEGATIVE DECLARATION

Notice of Determination of Non-Significance

Project Number: _____

Date: December 17, 2013

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The City of Syracuse Industrial Development Agency, as lead agency, has determined that the proposed action described below will not have a significant environmental impact and a Draft Impact Statement will not be prepared.

Name of Action: 706 North Clinton, LLC**SEQR Status:** Type 1
Unlisted **Conditioned Negative Declaration:** Yes
 No

Description of Action: The action involves the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, the demolition of approximately 20,000 square feet of deteriorated industrial space, the renovation of the remaining 36,600 square feet into Class A office space, and the acquisition and installation thereon of furniture, fixtures and equipment. The action also involves the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax.

Location: (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

706-16 Clinton Street North and Spencer Street, City of Syracuse, Onondaga County, New York

Reasons Supporting This Determination:

(See 617.7(a)-(c) for requirements of this determination; see 617.7(d) for Conditioned Negative Declaration)

This determination is based upon an examination of the EAF, the criteria contained in 6 NYCRR §617.7(c), and based further upon the Agency's knowledge of the area, and such further investigation of the action and its environmental effects as the Agency has deemed appropriate.

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed, and identify comment period (not less than 30 days from date of publication in the ENB)

For Further Information:

Contact Person: Ben Walsh, Executive Director

Address: City of Syracuse Industrial Development Agency
333 W. Washington St., Suite 130
Syracuse, NY 13202

Telephone Number: (315) 448-8028

For Type I Actions and Conditioned Negative Declarations, a Copy of this Notice is sent to:

Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-1750

Chief Executive Officer

Any person requesting a copy

All involved agencies

Applicant (if any)

Environmental Notice Bulletin, 625 Broadway, Albany, NY 12233-1750

EXHIBIT "G"

INDUCEMENT RESOLUTION

INDUCEMENT RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on December 17, 2013 at 8:30 o'clock a.m., in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

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

PRESENT: William Ryan, M. Catherine Richardson, Esq. Donald Schoenwald, Esq., John Gamage, Pamela Hunter

The following persons were **ALSO PRESENT:** **Staff Present:** Ben Walsh, Susan Katzoff, Esq., Judith DeLaney, Debra Ramsey-Burns, Matthew Kerwin, Esq., Thomas Babilon, Esq.; **Others Present:** Josh Podkaminer, David Holder, Tom Valenti, Eric Persons, Alex Marion, Bill Riley, Joanne Stevens, Louise Poindexter, Mike Irwin, mark McNamara; **Media:** Rick Moriarty, Ryan DeLaney

The following resolution was offered by John Gamage and seconded by Donald Schoenwald:

RESOLUTION UNDERTAKING THE ACQUISITION, RENOVATION, RECONSTRUCTION AND EQUIPPING OF THE PROJECT FACILITY, APPOINTING THE COMPANY AS AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, RECONSTRUCTION AND EQUIPPING OF THE PROJECT FACILITY AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BETWEEN THE AGENCY AND THE COMPANY

WHEREAS, the City of Syracuse Industrial Development Agency (the "*Agency*") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "*State*"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "*Act*") to promote, develop, encourage and assist in the acquiring, constructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, 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, lease, and sell real property and grant financial assistance in connection

with one or more “projects” (as defined in the Act); and

WHEREAS, by application dated November 8, 2013 (the “**Application**”), 706 North Clinton, LLC, or an entity to be formed (the “**Company**”), has requested the Agency undertake a project (the “**Project**”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the “**Land**”); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the “**Facility**”); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency adopted a resolution on November 19, 2013, describing the Project and the proposed financial assistance and authorizing a public hearing (“**Public Hearing Resolution**”); and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “**SEQRA**”), the Agency is required to make a determination whether the “action” (as said quoted term is defined in SEQRA) to be taken by the Agency may have a “significant impact on the environment” (as said quoted term is utilized in SEQRA), and the preliminary agreement of the Agency to undertake of the Project constitutes such an action; and

WHEREAS, to aid the Agency in determining whether the Project may have a significant impact upon the environment, the Company has prepared and submitted to the Agency an Environmental Assessment Form (the “**EAF**”), a copy of which is on file at the office of the Agency; and

WHEREAS, the Agency examined the EAF in order to classify the Project and determined that the Project constitutes an “Unlisted Action” as defined under SEQRA; and

WHEREAS, by resolution adopted December 17, 2013 (the “**SEQRA Resolution**”), the Agency determined that the Project will not have a significant adverse effect on the environment and issued a negative declaration; and

WHEREAS, the Agency conducted a public hearing with respect to the Project and the proposed Financial Assistance on December 17, 2013 pursuant to Section 859-a of the Act, notice of which was published on December 3, 2013, 2013 in the Post-Standard, a newspaper of general circulation in the City of Syracuse, New York and given to the chief executive officers of the affected tax jurisdictions by letter dated November 25, 2013; and

WHEREAS, the Agency has considered the policy, purposes and requirements of the Act in making its determinations with respect to taking official action regarding the Project;

WHEREAS, for purposes of exemption from New York State (the “*State*”) sales and use taxation as part of the Financial Assistance requested, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the New York State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight; and

WHEREAS, the Agency has given due consideration to the Application and to representations by the Company that the provision of Financial Assistance: (i) will induce the Company to develop the Project Facility in the City of Syracuse, (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State 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, except as may be permitted by the Act; and (iii) the Project will serve the purposes of the Act by creating and/or preserving permanent, private sector jobs and increasing the overall number of permanent, private sector jobs in the State.

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency as follows:

Section 1. It is the policy of the State to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation and economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration. It is among the purposes of the Agency to promote, develop, encourage and assist in the acquiring, constructing, improving, maintaining, equipping and furnishing of certain facilities, including commercial facilities, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their recreation opportunities, prosperity and standard of living.

Section 2. Based upon the representations and projections made by the Company to the Agency, the Agency hereby and makes the following determinations:

(A) Ratifies the findings in its Public Hearing Resolution and SEQRA Resolution.

(B) The Project constitutes a “*project*” within the meaning of the Act; and

(C) The Project is located in a “Highly Distressed Area” as that term is defined in the Act; and

(D) The acquisition of a controlling interest in the Project Facility by the Agency and the designation of the Company as the Agency’s agent for completion of the Project will be an inducement to the Company to renovate, reconstruct, equip and operate the Project Facility in the City of Syracuse, and will serve the purposes of the Act by, among other things, preserving and/or creating permanent private sector jobs, the general prosperity and economic welfare of the inhabitants of the City of Syracuse; and

(E) The Project will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or result 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, except as may be permitted by the Act.

Section 3. Subject to the terms of this Resolution and the conditions set forth in Section 4.02 of the Agreement (hereinafter defined), the Agency will (i) acquire an interest in the Land and Facility pursuant to a lease agreement (the “*Lease*”) to be entered into between the Company and the Agency; and accept an interest in the Equipment pursuant to a bill of sale from the Company (the “*Bill of Sale*”); (ii) sublease the Project Facility to the Company pursuant to a sublease agreement (the “*Sublease*” and with the Lease and the Bill of Sale, the “*Lease Documents*”) to be entered into between the Agency and the Company; (iii) grant the approved Financial Assistance; and (iv) provided that no default shall have occurred and be continuing under the Agreement, or the Lease Documents, execute and deliver all other certificates and documents necessary or appropriate for the grant of the approved Financial Assistance or requested by the Company, in form and substance acceptable to the Agency. Notwithstanding anything herein to the contrary, the amount of State and local sales and use tax exemption benefits comprising the Financial Assistance approved herein shall not exceed \$288,000.

Section 4. The Company shall provide, and the Agency shall maintain, records of the amount of State and local sales and use tax exemption benefits provided to the Project and each agent or Project operator and shall make such records available to the State Commissioner of Taxation and Finance (the “*Commissioner*”) upon request. The Agency shall, within thirty (30) days of providing any State sales and use tax exemption benefits, report to the Commissioner the amount of such benefits for the Project, identifying the Project, along with any such other information and specificity as the Commissioner may prescribe. As a condition precedent to the Company’s receipt of, or benefit from, any State or local sales and use tax exemptions, the Company must acknowledge and agree to make, or cause its agents and/or operators to make, all records and information regarding State and local sales and use tax exemption benefits available to the Agency upon request.

Section 5. The form and substance of the proposed agreement (in the form and on the terms and conditions as presented at this meeting and attached hereto as **Exhibit “A”**) (the “**Agreement**”) between the Agency and the Company setting forth the preliminary undertakings of the Agency and the Company with respect to the Project Facility are hereby approved. The Chairman or Vice Chairman of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, in substantially the same form as presented at this meeting and attached hereto as **Exhibit “A”**, with changes in terms and form as shall be consistent with this Resolution and as the Chairman or Vice Chairman shall approve. The execution thereof by the Chairman or Vice Chairman shall constitute conclusive evidence of such approval.

Section 6. Subject to the due execution and delivery by the Company of the Agreement, the satisfaction of the conditions of this Resolution, and the payment by the Company of any attendant fees, the Company is appointed the true and lawful agent of the Agency to proceed with the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf. The appointment made by this Section 6 shall not be effective until the Agreement referred to in Section 4 hereof is duly executed and delivered by the Company.

Section 7. The Chairman and/or Vice Chairman of the Agency, acting individually, are each hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the documents and agreements identified herein and any such additional certificates, instruments, documents or affidavits, to pay any such other fees, charges and expenses, to make such other changes, omissions, insertions, revisions, or amendments to the documents referred herein and to do and cause to be done any such other acts and things, as they determine, on advice of counsel to the Agency, may be necessary or desirable to consummate the transactions contemplated by this resolution.

Section 8. The Secretary of the Agency is hereby authorized to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 9. The obligation of the Agency to consummate any transaction contemplated herein or hereby is subject to and conditioned upon the execution and delivery of, among other things, an Environmental Compliance and Indemnification Agreement in favor of the Agency in form and substance acceptable to the Agency and its counsel by the Company and some or all of its principals, in the discretion of the appropriate Chairman and/or Vice Chairman of the Agency.

Section 10. No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

Section 11. Should the Agency’s participation in the Project be challenged by any party,

in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursement of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under the Act to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

Section 12. Counsel to the Agency is hereby authorized to work with the Company and others to prepare for submission to the Agency, all documents necessary to effect the grant of Financial Assistance and consummate the Lease Documents.

Section 13. The Secretary of the Agency is hereby authorized and may distribute copies of this Resolution and do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 14. This Resolution shall take effect immediately. A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

The question of the adoption of the foregoing Resolution was duly put to vote on a roll call, which resulted as follows:

	<u>AYE</u>	<u>NAY</u>
William Ryan	X	
M. Catherine Richardson	X	
Donald Schoenwald	X	
John Gamage	X	
Pamela Hunter	X	

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “*Agency*”) held on December 17, 2013, with the original thereof on file in my office, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

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 set my hand and affixed the seal of the Agency this 21 day of January, 2014.

City of Syracuse Industrial Development Agency



Steven P. Thompson, Secretary

(S E A L)

EXHIBIT "A"

AGENCY/COMPANY AGREEMENT

THIS AGREEMENT is between CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY (the "*Agency*"), with an office at 333 West Washington Street, Suite 130, Syracuse, New York 13202, and 706 NORTH CLINTON, LLC (the "*Company*"), with a mailing address of P.O. Box 515, Syracuse, New York 13202-0515.

Article 1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this agreement are the following:

1.01. The Agency is authorized and empowered by the provisions of Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "*State*"), as amended, and Chapter 641 of the Laws of 1979 of the State (collectively, the "*Act*") to designate an agent for constructing and equipping "projects" (as defined in the Act).

1.02. The purposes of the Act are to promote, attract, encourage and develop recreation and economically sound commerce and industry in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living, and to prevent unemployment and economic deterioration. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes, including the power to acquire and dispose of interests in real property and to appoint agents for the purpose of completion of projects undertaken by the Agency.

1.03. The Company has requested that the Agency undertake a project (the "*Project*") consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the "*Land*"); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the "*Facility*"); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the "*Equipment*" and together with the Land and the Facility, the "*Project Facility*"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the "*Financial Assistance*"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an

interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

1.04. The Company hereby represents to the Agency that the designation of the Company as the Agency's agent for the renovation, reconstruction and equipping of the Project Facility (i) will be an inducement to it to construct and equip the Project Facility in the City of Syracuse (the "**City**"); (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or of any other proposed occupant of the Project Facility from one area of the State to another or in the abandonment of one or more plants or facilities of the Company or of any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act; and (iii) undertaking the Project will promote, create and/or preserve private sector jobs in the State. The Company hereby further represents to the Agency that the Project Facility is located in a Highly Distressed Area as that phrase is defined in the Act.

1.05. The Agency has determined that the acquisition of a controlling interest in, and the renovation, reconstruction and equipping of the Project Facility and the subleasing of the same to the Company will promote and further the purposes of the Act.

1.06 On December 17, 2013, the Agency adopted a resolution (the "**Inducement Resolution**") agreeing, subject to the satisfaction of all conditions precedent set forth in such Resolution, to designate the Company as the Agency's agent for the acquisition, renovation, reconstruction and equipping of the Project Facility and determining that the leasing of the same to the Company will promote further purposes of the Act. For purposes of that designation, the Agency authorized as part of the approved Financial Assistance, State and local sales and use tax exemption benefits in an amount not exceed \$288,000.

1.07. In the Resolution, subject to the execution of this Agreement by the Company, and other conditions set forth in the Resolution, the Agency appointed the Company as its agent for the purposes of renovation, reconstruction and equipping the Project Facility, entering into contracts and doing all things requisite and proper for renovation, reconstruction and equipping the Project Facility.

Article 2. Undertakings on the Part of the Agency. Based upon the statement, representations and undertakings of the Company and subject to the conditions set forth herein, the Agency agrees as follows:

2.01. The Agency confirms that it has authorized and designated the Company as the Agency's agent for constructing and equipping the Project Facility.

2.02. The Agency will adopt such proceedings and authorize the execution of such Agency documents as may be necessary or advisable for (i) acquisition of a controlling interest in the Project Facility, (ii) designating the Company the Agency's agent for renovation, reconstruction and equipping of the Project Facility, and (iii) the leasing or subleasing of the

Project Facility to the Company, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company.

2.03. Nothing contained in this Agreement shall require the Agency to apply its funds to Project costs.

2.04. After satisfying the conditions precedent set forth in the Section 4.02 hereof and in the Inducement Resolution, the Company may proceed with the renovation, reconstruction and equipping of the Project Facility.

2.05. Subject to Section 4.02 hereof, the Company is appointed the true and lawful agent of the Agency (i) for the renovation, reconstruction and equipping of the Project Facility and (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for the renovation, reconstruction and equipping of the Project Facility, all with the same powers and the same validity as if the Agency were acting in its own behalf.

2.06. The Agency will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof. The Agency may in accordance with Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as "*SEQRA*"), undertake supplemental review of the Project. Such review to be limited to specific significant adverse environmental impacts not addressed or inadequately addressed in the Agency's review under SEQRA that arise from changes in the proposed Project, newly discovered information or a change in the circumstances related to the Project.

Article 3. Undertakings on the Part of the Company. Based upon the statements, representations and undertakings of the Agency and subject to the conditions set forth herein the Company agrees as follows:

3.01. (a) The Company shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the acquisition of a controlling interest in, and renovation, reconstruction and equipping of the Project Facility (including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing), whether such claims or liabilities arise as a result of the Company acting as agent for the Agency pursuant to this Agreement or otherwise.

(b) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove, any mechanics' or other liens against the Project Facility for labor or material furnished in connection with the acquisition, renovation,

reconstruction and equipping of the Project Facility.

(c) The Company shall indemnify and hold the Agency, its members, officers, employees and agents and anyone for whose acts or omissions the Agency or any one of them may be liable, harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation to the Project Facility, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

(d) The Company shall defend, indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on the non-disclosure of information, if any, requested by the Company in accordance with Section 4.05 hereof.

(e) The defense and indemnities provided for in this Article 3 shall survive expiration or termination of this Agreement and shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, facts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

(f) The Company shall provide and carry worker's compensation and disability insurance as required by law and comprehensive liability insurance with such coverages (including without limitation, owner's protective coverage for the benefit of the Agency, naming the Agency as an additional insured on all policies of coverage regarding the Project and contractual coverage covering the indemnities herein provided for), with such limits and which such companies as may be approved by the Agency. Upon the request of the Agency, the Company shall provide certificates of insurance in form satisfactory to the Agency evidencing such insurance.

(g) The Company shall apply and diligently pursue all approvals, permits and consents from the State of New York, the City, the City Planning Commission and any other governmental authority which approvals, permits and consents are required under applicable law for the development, renovation, reconstruction and equipping of the Project and any related site improvements. The Company acknowledges and agrees that the Agency's findings and determinations under SEQRA do not and shall not in and of themselves (except as specifically set forth in SEQRA) satisfy or be deemed to satisfy applicable laws, regulations, rules and procedural requirements applicable to such approvals, permits and consents.

(h) The Company shall complete the Local Access Agreement contained at Appendix I of the City of Syracuse Industrial Development Agency Financial Assistance Application and agrees that to the extent practicable utilize local contractors and suppliers for the renovation, reconstruction and equipping of the Project Facility. For purposes of this Agency

Agreement, the term “*Local*” shall mean Onondaga, Oswego, Madison, Cayuga, Cortland and Oneida Counties. The Company agrees that such Local contractors shall be provided the opportunity to bid on contracts related to the Project Facility.

3.02. The Company agrees that, as agent for the Agency or otherwise, it will comply at the Company’s sole cost and expense with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Agency and/or Company with respect to the Project Facility, the acquisition of a controlling interest therein, renovation, reconstruction and equipping thereof, the operation and maintenance of the Project Facility, supplemental review of adverse environmental impacts in accordance with SEQRA and the financing of the Project. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full, including, but not limited to, Section 875 of the Act; and upon the request of either party, this Agreement shall be amended to specifically set forth any such provision or provisions.

3.03. The Company agrees that, as agent for the Agency or otherwise, to the extent that such provisions of law are in fact applicable (without creating an obligation by contract beyond that which is created by statute) it will comply with the requirements of Section 220 of the Labor Law of the State of New York, as amended.

3.04. The Company will take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.05. If it should be determined that any State or local sales or compensatory use taxes are payable with respect to the acquisition, purchase or rental or machinery or equipment, materials or supplies in connection with the Project Facility, or are in any manner otherwise payable directly or indirectly in connection with the Project Facility, the Company shall pay the same and defend and indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

3.06 The Company ratifies and confirms its obligations to pay an annual administrative reporting fee in accordance with the Agency’s fee schedule to cover administrative and reporting requirements to comply with New York State reporting regulations on Agency assisted projects.

3.07 Whenever practicable, the Company and/or its agents, employees and contractors agree to hire from the local labor pool during the (re)construction period of the Project Facility.

Article 4. General Provisions.

4.01. This Agreement shall take effect on the date of the execution hereof by the Agency and the Company and, subject to Section 4.04 hereof, shall remain in effect until the Lease Documents become effective. It is the intent of the Agency and the Company that this

Agreement be superseded in its entirety by the Lease Documents.

4.02. (a) It is understood and agreed by the Agency and the Company that the grant of Financial Assistance and the execution of the Lease Documents and related documents are subject to (i) payment by the Company of the Agency's fee and Agency's counsel fees; (ii) obtaining all necessary governmental approvals, permits and consents of any kind required in connection with the Project Facility; (iii) approval by the members of the Agency; (iv) approval by the Company; and (v) the condition that there are no changes in New York State Law, including regulations, which prohibit or limit the Agency from fulfilling its obligations hereunder; (b) The Company, by executing this agreement, acknowledges and agrees to make, or cause its agents and/or operators to make, all records and information regarding State and local sales and use tax exemption benefits given to the Project as part of the Financial Assistance available to the Agency upon request; (c) The Company, by executing this Agreement, acknowledges and agrees to the terms and conditions of Section 875(3) of the Act as if such section were fully set forth herein and further agrees to cause all of its agents to acknowledge, agree and consent to same. Without limiting the scope of the foregoing the Company acknowledges that pursuant to Section 875(3) of the Act, the Agency shall recover, recapture, receive or otherwise obtain from the Company the portion of the Financial Assistance (the "**Recapture Amount**") consisting of: (1) (a) that portion of the State sales tax exemption to which the Company was not entitled, which is in excess of the amount of the State sales tax exemption authorized by the Agency or which is for property or services not authorized by the Agency; or (b) the full amount of such State sales tax exemption, if the Company fails to comply with a material term or condition regarding the use of the property or services as represented to the Agency in its Application or otherwise; and (2) any interest or penalties thereon imposed by the Agency or by operation of law or by judicial order or otherwise; and (d) The failure of the Company to promptly pay such Recapture Amount to the Agency will be grounds for the Commissioner to collect sales and use taxes from the Company under Article 28 of the State Tax Law, together with interest and penalties. In addition to the foregoing, the Company acknowledges and agrees that for purposes of exemption from New York State (the "**State**") sales and use taxation as part of the Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the New York State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

4.03. The Company agrees that it will, within thirty (30) days of a written request for same, regardless of whether or not this matter closes or the Project Facility is completed: (i) reimburse the Agency for all reasonable and necessary expenses, including without limitation the fees and expenses of counsel to the Agency arising from, out of or in connection with the Project, and/or any documents executed in connection therewith, including, but not limited to any claims or actions taken by the Agency against the Company or third parties; and (ii) indemnify the Agency from all losses, claims, damages and liabilities, in each case which the Agency may incur as a consequence of executing this Agreement or performing its obligations hereunder.

4.04. If for any reason the Lease Documents are not executed and delivered by the

Company and the Agency on or before **December 17, 2014**, the provisions of this Agreement (other than the provisions of Articles 3.01, 3.02, 3.03, 3.05, 4.02, 4.03 and 4.05, which shall survive) shall unless extended by agreement of the Agency and the Company, terminate and be of no further force or effect, and following such termination neither party shall have any rights against the other party except:

(a) The Company shall pay the Agency for all expenses incurred by the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility;

(b) The Company shall assume and be responsible for any contracts for the renovation, reconstruction or purchase of equipment entered into by the Agency at the request of or as agent for the Company in connection with the Project Facility; and

(c) The Company will pay the out-of-pocket expenses of members of the Agency and counsel for the Agency incurred in connection with the Project Facility and will pay the fees of counsel for the Agency for legal services relating to the Project Facility or the proposed financing thereof.

4.05. The Company acknowledges that Section 875(7) of the New York General Municipal Law (“GML”) requires the Agency to post on its website all resolutions and agreements relating to the Company’s appointment as an agent of the Agency or otherwise related to the Project, including this Agreement; and Article 6 of the New York Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Company feels that there are elements of the Project or information about the Company in the Agency’s possession which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the Company’s competitive position, the Company must identify such elements in writing, supply same to the Agency: (i) with respect to this Agreement, prior to or contemporaneously with the execution hereof; and (ii) with respect to all other agreements executed in connection with the Project, on or before the Closing Date, and request that such elements be kept confidential in accordance with Article 6 of the Public Officers Law. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the GML.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the _____ day of _____, 2013.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
William M. Ryan, Chairman

706 NORTH CLINTON, LLC

By: _____
Name: _____
Title: _____

EXHIBIT "H"

PILOT RESOLUTION

PILOT RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on December 17, 2013 at 8:30 o'clock a.m. in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

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

PRESENT: William Ryan, M. Catherine Richardson, Esq. Donald Schoenwald, Esq., John Gamage, Pamela Hunter

The following persons were **ALSO PRESENT:** **Staff Present:** Ben Walsh, Susan Katzoff, Esq., Judith DeLaney, Debra Ramsey-Burns, Matthew Kerwin, Esq., Thomas Babilon, Esq.; **Others Present:** Josh Podkaminer, David Holder, Tom Valenti, Eric Persons, Alex Marion, Bill Riley, Joanne Stevens, Louise Poindexter, Mike Irwin, mark McNamara; **Media:** Rick Moriarty, Ryan DeLaney

The following resolution was offered by M. Catherine Richardson and seconded by Donald Schoenwald:

RESOLUTION APPROVING A PAYMENT IN LIEU OF TAX SCHEDULE AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS BY THE AGENCY IN CONNECTION WITH A CERTAIN PROJECT UNDERTAKEN AT THE REQUEST OF THE COMPANY

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "**Act**") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, 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, lease, and sell real property and grant financial assistance in connection with one or more "projects" (as defined in the Act); and

WHEREAS, 706 North Clinton, LLC, or an entity to be formed (the "**Company**"), has

requested the Agency undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the "**Facility**"); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, to aid the Agency in determining whether the preliminary agreement of the Agency to undertake the Project may have a significant impact upon the environment, the Company has prepared and submitted to the Agency an Environmental Assessment Form (the "**EAF**"), a copy of which is on file at the office of the Agency; and

WHEREAS, on December 17, 2013 the Agency adopted a resolution classifying the Project as an "Unlisted Action", determining that the Project will not have a significant effect on the environment and preparation of an Environmental Impact Statement is not required, and authorizing the execution of a negative declaration (the "**SEQRA Resolution**") and a separate resolution taking official action toward the acquisition, renovation, reconstruction and equipping of the Project (the "**Inducement Resolution**"); and

WHEREAS, as part of the Financial Assistance, the Company requested the Agency consider a payment in lieu of tax schedule (the "**PILOT**"), as more fully described on **Exhibit "A"** attached hereto, which schedule conforms with the Agency's Uniform Tax Exemption Policy ("**UTEP**") established pursuant to General Municipal Law Section 874(4); and

WHEREAS, the Agency has given due consideration to the Application and to representations by the Company that the proposed PILOT, as part of the Financial Assistance (i) will induce the Company to develop the Project Facility in the City of Syracuse, and (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State 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, except as may be permitted by the Act; (iii) undertaking the Project will create and/or preserve permanent and temporary private sector jobs in the State and promote the general prosperity and economic welfare of the inhabitants of the City of Syracuse in furtherance of the purposes of the Act;

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency, as follows:

(1) Based upon the representations made by the Company to the Agency, and the reasons presented by the Company in support of its request for the PILOT schedule, the Agency hereby approves and the (Vice) Chairman and Secretary, acting individually, are each authorized to execute and deliver a payment in lieu of tax agreement ("**PILOT Agreement**") providing for the payment schedule attached as **Exhibit "A"** hereto.

(2) The Agency will, subject to, and in accordance with all resolutions adopted by the Agency in conjunction with this Project, execute and deliver a PILOT Agreement all in such form and substance as shall be substantially the same as approved by the Agency for other similar transactions and consistent with this Resolution and as approved by the Chairman or Vice Chairman of the Agency upon the advice of counsel to the Agency.

(3) The Chairman, Vice Chairman and any authorized representative of the Agency, acting individually, are each hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the documents and agreements identified herein and any such additional certificates, instruments, documents or affidavits, to pay any such other fees, charges and expenses, to make such other changes, omissions, insertions, revisions, or amendments to the documents referred to herein and to do and cause to be done any such other acts and things, as they determine, on advice of counsel to the Agency, may be necessary or desirable to consummate the transactions contemplated by this resolution.

(4) No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to above shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

(5) The Secretary of the Agency is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

(6) The resolution shall take effect immediately, but is subject to execution by the Company of a PILOT Agreement and the Agreement (as defined in the Inducement Resolution) and all other resolutions and other related documents adopted and/or approved by the Agency and/or as set forth herein.

(7) A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

The question of the adoption of the foregoing Resolution was duly put to vote on a roll call, which resulted as follows:

	<u>AYE</u>	<u>NAY</u>
William Ryan	X	
M. Catherine Richardson	X	
Donald Schoenwald	X	
John Gamage	X	
Pamela Hunter	X	

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “*Agency*”) held on December 17, 2013, with the original thereof on file in my office, and that the same (including any and all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

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 set my hand and affixed the seal of the Agency this 21 day of January, 2014.

City of Syracuse Industrial Development Agency



Steven P. Thompson, Secretary

(S E A L)

EXHIBIT "A"
PROPOSED PILOT SCHEDULE

706 North Clinton, LLC PILOT Schedule		
Year	Assessment	Payment
1	$\$820,000 \times \text{tax rate}^*$	-
2	$\$820,000 \times \text{tax rate}^*$	-
3	$\$820,000 \times \text{tax rate}^*$	-
4	$\$820,000 \times \text{tax rate}^*$	-
5	$\$820,000 \times \text{tax rate}^*$	-
6	$\$820,000 \times \text{tax rate}^*$	-
7	$\$820,000 \times \text{tax rate}^*$	-
8	$[(\text{full assessment} - \$820,000) \times .25] + (\$820,000 \times \text{tax rate})$	-
9	$[(\text{full assessment} - \$820,000) \times .50] + (\$820,000 \times \text{tax rate})$	-
10	$[(\text{full assessment} - \$820,000) \times .75] + (\$820,000 \times \text{tax rate})$	-

*tax rate = Combined Syracuse City, County, School District and Water District Real Property Tax Rate in effect for each year, or portion thereof, covered by the Agreement

EXHIBIT "I"

FINAL APPROVING RESOLUTION

FINAL APPROVING RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on December 17, 2013, at 8:30 o'clock a.m. at the Agency's offices in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

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

PRESENT: William Ryan, M. Catherine Richardson, Esq. Donald Schoenwald, Esq., John Gamage, Pamela Hunter

The following persons were **ALSO PRESENT:** **Staff Present:** Ben Walsh, Susan Katzoff, Esq., Judith DeLaney, Debra Ramsey-Burns, Matthew Kerwin, Esq., Thomas Babilon, Esq.; **Others Present:** Josh Podkaminer, David Holder, Tom Valenti, Eric Persons, Alex Marion, Bill Riley, Joanne Stevens, Louise Poindexter, Mike Irwin, mark McNamara; **Media:** Rick Moriarty, Ryan DeLaney

The following resolution was offered by M. Catherine Richardson and seconded by Pamela Hunter:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS BY THE AGENCY IN CONNECTION WITH A CERTAIN PROJECT UNDERTAKEN AT THE REQUEST OF THE COMPANY

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "**Act**"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, for the purpose of promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, by application dated November 8, 2013 (the "**Application**"), 706 North Clinton, LLC, or an entity to be formed (the "**Company**"), has requested the Agency undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the "**Facility**"); (iii) the acquisition and

installation thereon of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency conducted a public hearing with respect to the Project and the proposed Financial Assistance on December 17, 2013 pursuant to Section 859-a of the Act, notice of which was published on December 3, 2013 in the Post-Standard, a newspaper of general circulation in the City of Syracuse, New York and given to the chief executive officers of the affected tax jurisdictions by letter dated November 25, 2013; and

WHEREAS, pursuant to Article 8 of the State Environmental Conservation Law, as amended and the regulations promulgated thereunder (collectively “*SEQRA*”), the Agency is required to make a determination with respect to the environmental impact of any “action” (as defined by SEQRA) to be taken by the Agency and the approval of the Project and grant of Financial Assistance constitute such an action; and

WHEREAS, in accordance with SEQRA, on December 17, 2013, the Agency adopted a resolution (the “*SEQRA Resolution*”) entitled:

RESOLUTION CLASSIFYING A CERTAIN PROJECT AS AN UNLISTED ACTION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT, DECLARING THE AGENCY LEAD AGENCY FOR PURPOSES OF AN UNCOORDINATED REVIEW THEREUNDER AND DETERMINING THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT

which resolution is in full force and effect and has not been amended or modified; and

WHEREAS, the Agency adopted a resolution on December 17, 2013 (the “*Inducement Resolution*”) entitled:

RESOLUTION UNDERTAKING THE ACQUISITION, RENOVATION, RECONSTRUCTION AND EQUIPPING OF THE PROJECT FACILITY, APPOINTING THE COMPANY AS AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, RECONSTRUCTION AND EQUIPPING OF THE PROJECT FACILITY AND AUTHORIZING THE EXECUTION AND DELIVERY OF

**AN AGREEMENT BETWEEN THE AGENCY AND THE
COMPANY**

which resolution is in full force and effect and has not been amended or modified.

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency, as follows:

Section 1. Based upon the representations made by the Company to the Agency and after consideration of the comments received at the public hearing, if any, the Agency hereby ratifies all of its prior resolutions adopted in conjunction with the Project, including but not limited to the Inducement Resolution, and all other action with respect to the Project and Financial Assistance taken by the Agency, and makes the following findings and determinations:

(a) Ratifies the findings in its SEQRA, PILOT and Inducement Resolutions.

(b) The acquisition of a controlling interest in the Project Facility by the Agency, the granting of the Financial Assistance and the designation of the Company as the Agency's agent for completion of the Project will be an inducement to, and permit, the Company to develop and operate the Project Facility in the City of Syracuse, thus serving the public purposes of Article 18-A of the General Municipal Law of New York State by promoting and preserving the job opportunities, general prosperity, health and economic welfare of the inhabitants of the City of Syracuse (the "**City**") in furtherance of the purposes of the Act.

(b) The Project will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or result 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, except as may be permitted by the Act.

(c) The commitment of the Agency to provide Financial Assistance to the Company will enable and induce the Company to renovate, reconstruct and equip the Project Facility.

(d) The renovation, reconstruction, equipping and operation of the Project Facility and the attendant promotion of the local economy will advance the job opportunities, through the creation and/or preservation of both full and part-time jobs, and promote the health, prosperity and economic welfare of the people of the State and the City of Syracuse; and the granting of the other Financial Assistance is a necessary component to the financing of the Project.

(e) The Project Facility constitutes a "project" within the meaning of the Act.

(f) The Project Facility is desirable and in the public interest for the Agency to grant Financial Assistance in connection with the Project.

(g) The Project Facility is located in a “Highly Distressed Area” as that term is defined in the Act.

Section 2. It is the policy of the State to promote the economic welfare, recreational opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation and economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration. The Project will serve the public purposes of Article 18-A of the General Municipal Law of the State of New York by creating and/or preserving private sector jobs and promoting economic development.

Section 3. It is among the purposes of the Agency to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of certain facilities, including commercial facilities, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their recreation opportunities, prosperity and standard of living.

Section 4. Subject to the conditions set forth in the Inducement Resolution and Section 4.02 of the Agreement (as defined in the Inducement Resolution), the Agency will (A) acquire a controlling interest in the Project Facility; (B) lease the Land and Facility from the Company pursuant to a lease agreement between the Agency and the Company (the “*Company Lease*”); acquire an interest in the Equipment pursuant to a bill of sale from the Company (the “*Bill of Sale*”); and sublease the Project Facility to the Company pursuant to a sublease agreement (the “*Agency Lease*”); (C) secure the Company’s borrowings with respect to the Project Facility by joining in one or more construction or permanent mortgages on the Project Facility in favor of the Company’s lenders(s); (D) provide the approved Financial Assistance; and (E) execute and deliver any other documents necessary to effectuate the Financial Assistance contemplated by and consistent with this Resolution upon the advice of counsel to the Agency.

Section 5. The Chairman, Vice Chairman and any authorized representative of the Agency, acting individually, are each hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the documents and agreements identified in Section 4 of this Resolution and any such additional certificates, instruments, documents or affidavits, to pay any such other fees, charges and expenses, to make such other changes, omissions, insertions, revisions, or amendments to the documents referred to in Section 4 of this resolution and to do and cause to be done any such other acts and things, as they determine, on advice of counsel to the Agency, may be necessary or desirable to consummate the transactions contemplated by this resolution.

Section 6. The Agency’s participation in any of the documents referenced herein, or the granting of the approved Financial Assistance, is contingent upon counsel for the Agency’s review and the Chairman or Vice Chairman’s approval of, all documents requested or required by the Agency in connection with the Project Facility, as well as the Company’s execution of the Agreement (as defined in the Inducement Resolution) and all other documents

required by the Agency to effectuate the intent of this Resolution and as required in similar transactions.

Section 7. No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

Section 8. Counsel to the Agency is hereby authorized to work with the Company and others to prepare, for submission to the Chairman and/or Vice Chairman, all documents necessary to effect the undertaking of the Project and the grant of Financial Assistance in connection with the Project.

Section 9. The approvals provided for herein are contingent upon the Company's payment of all of the Agency's fees and costs, including but not limited to attorneys fees.

Section 10. The Secretary of the Agency is hereby authorized to distribute copies of this Resolution and do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 11. This Resolution shall take effect immediately. A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

The question of the adoption of the foregoing Resolution was duly put to vote on a roll call, which resulted as follows:

	<u>AYE</u>	<u>NAY</u>
William Ryan	X	
M. Catherine Richardson	X	
Donald Schoenwald	X	
John Gamage	X	
Pamela Hunter	X	

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “*Agency*”) held on December 17, 2013, with the original thereof on file in my office, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

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 set my hand and affixed the seal of the Agency this 29 day of January, 2014.

City of Syracuse Industrial Development Agency



Steven P. Thompson, Secretary

(S E A L)

17

**GENERAL CERTIFICATE OF
706 NORTH CLINTON, LLC**

This certificate is made in connection with the execution by 706 North Clinton, LLC, a New York limited liability company (the “**Company**”) of the Company Lease, the Agency Lease, the PILOT Agreement and any other document now or hereafter executed by the Company in connection with the City of Syracuse Industrial Development Agency (the “**Agency**”) agreeing, at the Company’s request, to undertake a project (the “**Project**”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the “**Land**”); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the “**Facility**”); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the “**Financial Assistance**”); (C) the appointment of the Company as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Project Facility is owned by the Company. The Company will lease the Land and Facility to the Agency pursuant to a Company Lease Agreement dated as of July 1, 2014 (the “**Company Lease**”) and transfer its interest in the Equipment back to the Agency pursuant to a bill of sale dated as of July 1, 2014 (the “**Bill of Sale**”) and the Agency will sublease the Project Facility back to the Company pursuant to an Agency Lease Agreement dated as of July 1, 2014 (the “**Agency Lease**”).

Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Agency Lease except that, for purposes of this certificate (A) all definitions with respect to any document shall be deemed to refer to such document only as it exists as of the date of this certificate and not as of any future date, and (B) all definitions with respect to any Person shall be deemed to refer to such Person only as it exists as of the date of this certificate and not as of any future date or to any successor or assign.

The undersigned does hereby certify as follows:

1. Attached hereto as **Exhibit “A”** is a true, correct and complete copy of the Articles of Organization of the Company and any amendments thereto filed with the New York State Secretary of State with proof of publication thereof attached thereto, which Articles (including any amendments) are in full force and effect on the date hereof.

2. Attached hereto as **Exhibit "B"** is a true, correct and complete copy of the Company's Operating Agreement, and any amendments thereto, and such Operating Agreement, as may have been amended, is in full force and effect on the date hereof.

3. The Company is, and at all times will be, a limited liability company, duly organized, validly existing and in good standing under the laws of the State and authorized and licensed under the laws of the State to transact business as a limited liability company for the purpose of owning, reconstructing, renovating, equipping and operating the Project Facility in the State. Attached hereto as **Exhibit "C"** is a true and correct copy of a Certificate of Good Standing of the Company issued by the New York State Secretary of State.

4. The Company has full legal right, power and authority to execute and deliver the Company Documents and to consummate the transactions on the part of the Company contemplated by the Company Documents. The Company Documents have been duly authorized, executed, and delivered by the Manager on behalf of the Company and are in full force and effect as of the date hereof. Attached hereto as **Exhibit "D"** is a true, correct and complete copy of the authorizing resolution of the Manager of the Company (the "**Resolution**") in respect of the execution, delivery and performance of the Company Documents.

5. The Company understands and agrees that, unless a written waiver is first obtained from the Agency, the Company and its Additional Agents shall utilize local labor, contractors and suppliers for the construction, renovation, reconstruction and equipping of the Project Facility. The term "**local**" shall mean Onondaga, Oswego, Madison, Cayuga, Cortland and Oneida Counties. The Company further understands and agrees that failure to comply with these local labor requirements may result in the revocation or recapture of benefits provided/approved to the Project by the Agency. In furtherance thereof, Appendix I to the Agency's Application entitled "Local Access Agreement" has been completed and is attached hereto as **Exhibit "E"**.

6. The Company understands and agrees that it is the preference of the Agency that the Company provide opportunities for the purchase of goods and services from : (i) business enterprises located in the City; (ii) certified minority and or women-owned business enterprises; and (iii) business enterprises that employ residents of the City. The Company further understands and acknowledges that consideration will be given by the Agency to the Company's efforts to comply, and compliance, with this objective at any time an extension of benefits is sought or involvement by the Agency with the Project is requested by the Company.

7. All consents, approvals, authorizations or orders of, notices to, or filings, registrations or declarations with, any court or governmental authority, board, agency, commission or body having jurisdiction which are required on behalf of the Company or for the execution and delivery by the Company of the Company Documents or the consummation on the part of the Company of the transactions contemplated thereby have been obtained.

8. After performing due diligence, there is no legal action, suit, proceeding, inquiry or investigation at law or in equity (before or by any court, agency, arbitrator, public board or body or other entity or person) pending or threatened against or affecting the Company or, to the knowledge of the Company, any basis therefor (i) in any way affecting the organization, existence or good standing of the Company, (ii) contesting or materially affecting the validity or

enforceability of the Company Documents, (iii) contesting the powers of the Company or its authority with respect to the Company Documents, (iv) contesting the authority of the Company to act on behalf of the Company or the authority of the representatives of the Company to act on behalf of the Company, (v) wherein an unfavorable decision, ruling or finding would have a material adverse effect on (A) the financial condition or operations of the Company, or (B) the consummation on the part of the Company of the transactions contemplated by any Company Documents.

9. The execution and delivery by the Company on behalf of the Company of the Company Documents and the consummation by the Company of the transactions contemplated thereby are not prohibited by, do not violate any provision of, and will not result in a breach of or default under (i) the organizational documents of the Company, (ii) any applicable law, rule, regulation, order, writ, injunction, judgment or decree of any court or governmental body or other requirement to which the Company is subject, or (iii) any contract, agreement, mortgage, lease, guaranty, commitment or other obligation or instrument to which the Company is a party or by which the Company or its properties is bound.

10. All information concerning the Project Facility and the Company submitted to the Agency by the Company is true and correct in all material respects and does not omit to state a material fact necessary to make the statements therein not misleading.

11. Assuming the valid authorization, execution and delivery of the Agency Lease and the other Company Documents by the other parties thereto, the Agency Lease and the other Company Documents are the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except to the extent that enforcement thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally or by the exercise of judicial discretion in accordance with general principles of equity. No default by the Company or, to the best knowledge of the undersigned, no event of default on the part of any other party to the Company Documents has occurred or is continuing and no event has occurred which, with the giving of notice or passage of time or both, would be such an event of default. The Company has duly authorized the taking of and has taken all actions necessary to carry out and give effect to the transactions contemplated to be performed on its part by the Company Documents.

12. All permits (including building permits), licenses and authorizations necessary for the construction, ownership and operation of the Project in the manner contemplated by each of the Company Documents have been obtained or will be obtained, and said construction, ownership and operation will not, to the best knowledge of the Company, conflict with any zoning or similar ordinance applicable to the Project. To the best of the Company's knowledge, the Project conforms to all material environmental regulations.

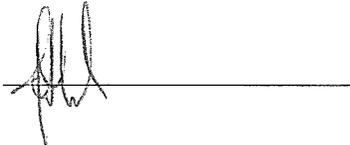
13. There is no Event of Default or default on the part of the Company under the Company Lease, the Agency Lease, the PILOT Agreement or any other Company Document, and no event has occurred and is continuing which, after notice or passage of time or both, would give rise to a default under any thereof.

14. The Company Lease, the Agency Lease, the PILOT Agreement and the other Company Documents are in full force and effect and the Company has not assigned or pledged any of its rights under these documents.

15. The Company acknowledges and restates all of the representations and covenants in Section 2.2 of the Agency Lease and incorporates same herein by reference as if fully set forth herein.

16. The Company further acknowledges its obligation under Section 8.5 of the Agency Lease to provide the additional information as set forth therein and agrees to same.

17. The authorized representatives of the Company who, pursuant to the Resolution, are authorized to execute the Company Documents and the office held by each person are as set forth below. The signature set opposite the name of such officer, if any, is a genuine specimen of such officer's signature:

<u>Name</u>	<u>Signature</u>	<u>Office/Title</u>
<u>Joshua Podkaminer</u>		<u>Manager</u>

18. The Company represents and warrants that it has no employees and therefore is not now required to carry worker's compensation insurance. The Company represents and acknowledges that in the event it hires or obtains any employees in the future, it has an obligation pursuant to the Agency Lease, dated as of July 1, 2014 by and between the Company and the Agency, to obtain worker's compensation insurance and provide proof of same to the Agency.

IN WITNESS WHEREOF, I have set my hand and signature as officer of the Company as of July 1, 2014.

706 NORTH CLINTON, LLC

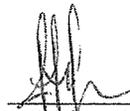
By: 
Joshua Podkaminer, Manager

EXHIBIT "A"
ARTICLES OF ORGANIZATION

FILING RECEIPT

=====

ENTITY NAME: 706 NORTH CLINTON, LLC

DOCUMENT TYPE: ARTICLES OF ORGANIZATION (DOM LLC)

COUNTY: ONON

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FILED:10/26/2012 DURATION:***** CASH#:121026001157 FILM #:121026001081
DOS ID:4314055

FILER:

EXIST DATE

DAVID G. BURCH, JR., ESQ.
HISCOCK & BARCLAY, LLP
ONE PARK PLACE, 300 SOUTH STATE ST
SYRACUSE, NY 13202

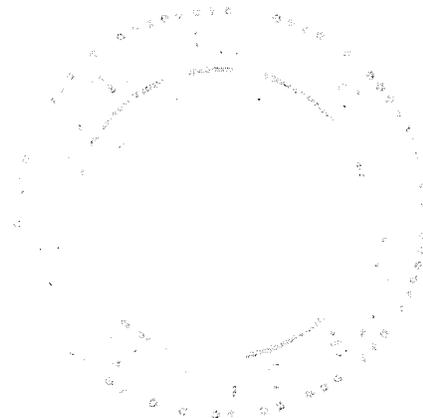
10/26/2012

ADDRESS FOR PROCESS:

C/O HISCOCK & BARCLAY, LLP
ONE PARK PLACE
SYRACUSE, NY 13202

300 SOUTH STATE STREET

REGISTERED AGENT:



The limited liability company is required to file a Biennial Statement with the Department of State every two years pursuant to Limited Liability Company Law Section 301. Notification that the biennial statement is due will only be made via email. Please go to www.email.ebiennial.dos.ny.gov to provide an email address to receive an email notification when the Biennial Statement is due.

=====

SERVICE COMPANY: COLBY ATTORNEYS SERVICE COMPANY - 08 SERVICE CODE: 08 *

FEEs 235.00

FILING 200.00
TAX 0.00
CERT 0.00
COPIES 10.00
HANDLING 25.00

PAYMENTS 235.00

CASH 0.00
CHECK 0.00
CHARGE 0.00
DRAWDOWN 235.00
OPAL 0.00
REFUND 0.00

ARTICLES OF ORGANIZATION

OF

706 NORTH CLINTON, LLC

Under Section 203 of the Limited Liability Company Law

David G. Burch, Jr., Esq.
Hiscock & Barclay, LLP
One Park Place
300 South State Street
Syracuse, New York 13202

ARTICLES OF ORGANIZATION

OF

706 NORTH CLINTON, LLC

Under Section 203 of the Limited Liability Company Law

The undersigned, for the purpose of forming a limited liability company pursuant to Section 203 of the New York Limited Liability Company Law, does hereby make, sign and acknowledge these Articles, stating as follows:

FIRST: The name of the limited liability company is: 706 North Clinton, LLC.

SECOND: The county within the State of New York in which the office of the limited liability company is to be located is Onondaga.

THIRD: Management of the limited liability company is vested in one or more managers.

FOURTH: The Secretary of State is designated as agent of the limited liability company upon whom process in any action or proceeding against it may be served and the address within the State to which the Secretary of State shall mail a copy of process in any action or proceeding against the limited liability company which may be served upon it is: c/o Hiscock & Barclay, LLP, One Park Place, 300 South State Street, Syracuse, New York 13202.

IN WITNESS WHEREOF, these Articles have been subscribed this 26th day of October, 2012.

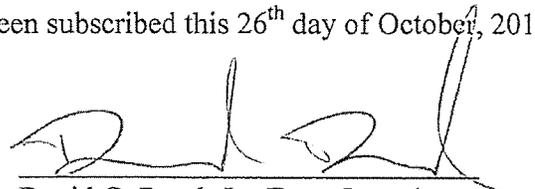

David G. Burch Jr., Esq., Organizer

EXHIBIT "B"
OPERATING AGREEMENT

OPERATING AGREEMENT
of
706 NORTH CLINTON, LLC

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APPENDIX "B"B-1

OPERATING AGREEMENT

of

706 NORTH CLINTON, LLC

THIS OPERATING AGREEMENT (the “Agreement”) is entered into and shall be effective as of the ___ day of _____ 2014 by and among each and all of the individuals and entities listed on **Exhibit “A”** annexed hereto (each individually a “Member” and collectively the “Members”, which terms, for purposes of this Agreement, shall include all Persons who hereafter become Members, as more specifically described in the definition of such terms in Appendix “A” hereto) with respect to 706 North Clinton, LLC, a New York limited liability company (the “Company”).

WHEREAS, the Members desire to adopt this Agreement as the Operating Agreement of the Company.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions herein contained and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

SECTION 1 DEFINED TERMS

1.1 DEFINITIONS. The defined terms used in this Agreement (as indicated by the first letter of each word in the term being capitalized) shall, unless the context clearly requires otherwise, have the meanings specified in **Appendix “A”** and **Appendix “B”** at the end of this Agreement.

SECTION 2 THE COMPANY

2.1 FORMATION. The parties hereby agree to form a limited liability company pursuant to the provisions of the Act and upon the terms and conditions of this Agreement.

2.2 NAME. The name of the Company is 706 North Clinton, LLC, a New York limited liability company, and all business of the Company shall be conducted in such name. The Board of Managers may authorize a change in the name of the Company. The Company shall hold all of its assets and Property in the name of the Company and not in the name of any Member. The Company may conduct business under an assumed name by filing an assumed name certificate in the manner prescribed by applicable law.

2.3 PURPOSE. The purpose of the Company is to acquire real property located at 706 North Clinton Street in Syracuse New York, to rehabilitate the existing building located thereon and construct additional improvements thereon, initially for medical and business office space, and to lease space therein to tenants (collectively, the “Development Project”). The Company shall have the power and authority to enter into all transactions which are provided for in this Agreement and as may be necessary or incidental to accomplish or implement the purposes of the Company including such powers as may be authorized by this Agreement or permitted under the Act but in all events consistent with the terms, conditions and restrictions set forth in this Agreement. In no event shall the Company engage in any activity which is proscribed by the laws of the State of New York.

2.4 PRINCIPAL PLACE OF BUSINESS. The initial principal place of business of the Company shall be 148 Berwyn Ave., Syracuse, New York 13210. The Board of Managers may change the principal place of business of the Company to the Building upon completion of its construction.

2.5 TERM. The term of the Company shall be perpetual unless the Company is dissolved earlier as set forth in this Agreement.

2.6 FILINGS.

(a) The Articles of the Company have been filed in the office of the Secretary of State of the State of New York in accordance with the provisions of the Act. The Board of Managers shall take any and all other actions reasonably necessary to perfect and maintain the status of the Company as a limited liability company under the laws of the State of New York. The Board of Managers shall cause amendments to the Articles to be filed whenever such filing is required by the Act. Such amendments may be executed by any Manager.

(b) The Board of Managers shall execute and cause to be filed original or amended certificates and shall take any and all other actions as may be reasonably necessary to perfect and maintain the status of the Company as a limited liability company or similar type of entity under the laws of any states or jurisdictions other than New York State in which the Company engages in business.

SECTION 3
MEMBERS; CAPITAL CONTRIBUTIONS

3.1 MEMBERSHIP INTERESTS; MEMBERS. The ownership of the Company shall be represented by Membership Interests. The names and addresses of the Members are set forth on **Exhibit “A.”** Such Persons are hereby admitted as Members of the Company.

3.2 CAPITAL CONTRIBUTIONS. Previously to or simultaneously with the execution of this Agreement, each Member shall contribute to the Company the consideration set forth opposite such Member’s name on **Exhibit “B”** hereof. As consideration for such Capital Contribution, each Member shall receive his or her Membership Interest.

3.3 RETURN OF CAPITAL. Except as otherwise provided in this Agreement, no Member shall be entitled to have his/her Capital Contribution returned to him/her. Under circumstances

requiring a return of any Capital Contributions, no Member shall have the right to receive Property other than cash except as may be specifically provided herein.

3.4 INTEREST. No Member shall receive any interest, salary or drawing with respect to his/her Capital Contribution or his/her Capital Account or for services rendered on behalf of the Company or otherwise in his/her capacity as a Member, except as otherwise provided in this Agreement.

3.5 LIMITED LIABILITY. The Members shall not be liable for the debts, liabilities, contracts or any other obligations of the Company. Except as otherwise provided by applicable state law, a Member shall not be required to lend any funds to the Company. No Manager shall have any personal liability for the repayment of any Capital Contributions of the Members, provided, however, nothing in this Section shall be deemed to relieve any Manager of any liability resulting from such Manager's bad faith, intentional misconduct, knowing violation of law or breach of any fiduciary duty.

3.6 LOANS. Any Member may, with the approval of the Board of Managers, lend or advance money to the Company. If any Member shall make any loan to the Company or advance money on its behalf, the amount of any such loan or advance shall not be treated as a Capital Contribution but shall instead, be a debt due from the Company. The amount of any such loan or advance shall be repayable out of the Company's cash and shall have priority over any distributions made pursuant to **Section 5** hereof. All such loans or advances shall bear interest at the same rate the Company could have borrowed such funds from the Institutional Lender that the Company normally does business with or if there is no such Institutional Lender or if such Institutional Lender would decline to advance such funds, at the Prime Rate *plus* two percentage points. Except as otherwise set forth in this Agreement, no Member shall be obligated to make any loan or advance to the Company.

3.7 DEFICIT CASH FLOW CONTRIBUTIONS.

(a) Other than the Capital Contribution or any Subscription Price, no Member shall be required to make any additional Capital Contribution at any time.

(b) From time to time, the Board of Managers may give any number of Deficit Contribution Notices to the members. In such event, each Member shall have the right to participate in any such additional Capital Contribution to the extent of such Member's Membership Percentage of the Cash Flow Deficit identified in any such Deficit Contribution Notice (the "Additional Capital Contribution") In the event a Member elects to participate in such Additional Capital Contribution, such Member shall make such Additional Capital Contribution by the date designated for the Additional Capital Contribution in the Deficit Contribution Notice.

(c) In the event that any one or more of the Members fail to make the Additional Capital Contribution within ten (10) days after the date designated for the Additional Capital Contribution in the Deficit Contribution Notice, the Board of Managers may give another Deficit Contribution Notice (an "Excess Deficit Contribution Notice") to the Members who made the Additional Capital Contribution within such ten (10) day time period. The Members whom receive an Excess Deficit Contribution Notice may contribute to the Company their proportionate

share of the remaining Cash Flow Deficit (the “Excess Capital Contribution”). A Member shall make his or her Excess Capital Contribution within ten (10) days after delivery of the Excess Deficit Contribution Notice.

(d) In the event any one or more of the Members receiving an Excess Deficit Contribution Notice elect not to make an Excess Capital Contribution, the Board of Managers shall have the power to accept from any Member or Members who made an Excess Capital Contribution such further additional capital contributions in such amounts as may be determined by the Board of Managers, provided, however, that such amounts collectively shall not exceed the total amount of the Cash Flow Deficit set forth in the Deficit Contribution Notice.

(e) In the event that an Excess Capital Contribution is made by one or more Members, the Capital Accounts of the Members shall be adjusted to reflect such Excess Capital Contribution, and the Board of Managers shall have the discretion to make a Gross Asset Value adjustment at such time as the Excess Capital Contribution(s) is made.

3.8 GUARANTEE OF INSTITUTIONAL LOANS. The Members acknowledge that it may be necessary for the Members, from time to time, to jointly and severally guarantee any Institutional Loans made to the Company by Institutional Lenders (the “Guarantees”). In connection with any such Guarantees, each Member hereby agrees as follows:

(a) Upon the request of the Board of Managers, each Member shall execute and deliver any and all documentation reasonably requested by any Institutional Lender to evidence such Guarantees.

(b) Notwithstanding the fact that it may be necessary from time to time to jointly and severally guarantee an Institutional Loan, it is the intent of the Members that each Member only be liable for such Member’s pro-rata share (based on Membership Percentages) of any payments made pursuant to a Guaranty. In the event a Member is, for any reason, required to pay more than such Member’s pro-rata share of any payments made pursuant to a Guaranty (i.e., the percentage of such payment equal to the Membership Percentage of such Member), the other Members shall promptly reimburse such Member for any such excess payment on a pro-rata basis.

(c) A breach of the provisions of this **Section 3.8** shall constitute an Adverse Act.

3.9 MEETINGS AND ACTIONS OF THE MEMBERS.

(a) An annual meeting of the Members shall be held within five (5) months after the close of the fiscal year of the Company or such date and at such time and place (either within or without New York State) as shall be fixed by the Board of Managers. At the annual meeting, the Members shall transact such business as may properly be brought before the meeting.

(b) Proxies. Each Member may authorize any Person or Persons to act for such Member by proxy on all matters in which such Member is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Every proxy must be signed by the Member or the Member’s attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy.

Every proxy shall be revocable at the pleasure of the Member executing the same.

(c) Written Consent. Notwithstanding anything to the contrary in this Section 3.9, the Members may take without a meeting any action that may be taken by the Members under this Agreement if such action is approved by the unanimous written consent of the Members.

(d) Withdrawal. Except as otherwise expressly permitted by this Agreement, each Member hereby covenants and agrees not to: (i) withdraw or attempt to withdraw from the Company; or (ii) exercise any power under the Act to dissolve the Company.

(e) Partition. Each Member hereby irrevocably waives any right the Member may have to maintain any action for partition with respect to any Property of the Company.

(f) Other Instruments. Each Member hereby agrees to execute and deliver to the Company within five (5) days after receipt of a written request therefor, such other and further documents and instruments, statements of interest and holdings, designations, powers of attorney and other instruments and to take such other action as the Board of Managers deems necessary, useful or appropriate to comply with any laws, rules or regulations.

3.10 VOTES. Each Member shall be entitled to cast one (1) vote and fraction thereof for every percentage point and fraction thereof in his or her Membership Percentage as of the date the vote is taken. Except as otherwise provided in this Agreement, any action which requires the approval of the Members shall be deemed approved if the action receives a Majority Vote of the Members.

3.11 SUPERMAJORITY VOTES. The following actions of or with respect to the Company shall require the approval of more than 66 2/3% of the Membership Percentages held by the Members:

- (a) admission of a new Member, except for a Permitted Transfer;
- (b) termination, whether by liquidation or by other means of withdrawal, of the Membership Interest in the Company of a Member;
- (c) sale of any interest in real estate owned by the Company;
- (d) merger of the Company with any other entity;
- (e) purchase of substantially all the assets of or a controlling interest in (50% or greater) any other entity;
- (f) commencement of a bankruptcy proceeding with respect to the Company;
- (g) except as otherwise provided in this Agreement, amend this Agreement in any manner that would change the Membership Percentages.

3.12 NEW MEMBERS. Except for a Permitted Transfer, any Person may become a Member only upon approval of more than 66 2/3% of the Membership Percentages outstanding

on the date of such approval.

SECTION 4 ALLOCATIONS

4.1 ALLOCATIONS. After giving effect to the special allocations set forth in **Appendix “B”** hereto, Profits and Losses for any fiscal year shall be allocated to the Members as follows:

(a) Generally. The Profits and Losses of the Company shall be determined for each fiscal year in accordance with the accounting method followed by the Company for federal income tax purposes and otherwise in accordance with generally accepted accounting principles applied in a consistent manner. Profits and Losses shall be allocated to the Members on a monthly basis. For this purpose, the Company will utilize the “interim closing of the books” method and the books of the Company will be closed at the close of the last day of the month. In determining the varying interests of the Members in the Company during the monthly allocation period provided herein, Members entering the Company during the month shall be deemed to have entered into the Company on the first day of the month.

(b) Transferor-Transferee Allocations. As between a Member and the Member’s transferee, Profits and Losses for any month shall be apportioned to the person who is the holder of the Membership Interest transferred on the last day of the monthly allocation period provided without regard to the results of the Company’s operations during the period before and after such transfer.

(c) Profits. Profits of the Company will be allocated as follows:

(1) First, to the Members until the cumulative Profits allocated to the Members pursuant to this paragraph (c)(1) for the current and all prior fiscal years is equal to the cumulative Losses allocated pursuant to paragraph (d)(2), below, hereof for all prior fiscal years in the proportion that such Losses were allocated pursuant to paragraph (d)(2);

(2) Second, to the Members in accordance with their respective Membership Percentages.

(d) Losses. Losses of the Company will be allocated as follows:

(1) To each Member in the ratio that that Member’s positive Capital Account balance bears to the aggregate positive Capital Account balances of all Members.

(2) Notwithstanding the foregoing allocations, no allocation of Loss shall be made to a Member that creates (or increases) an Adjusted Capital Account Deficit for that Member. All Losses in excess of such limitation shall be allocated among the Members for whom the allocation of the Losses would not create (or increase) an Adjusted Capital Account Deficit, pro rata according to positive Adjusted Capital Account balances of the Members.

(e) Credits. All state, local, and federal credits shall be allocated to each Member according to the Member’s Membership Percentage as of the end of the Fiscal Year.

The provisions set forth in **Appendix “B”** attached hereto are hereby incorporated by this reference and shall be deemed a part of this **Section 4** as if fully set forth herein.

SECTION 5 DISTRIBUTIONS

5.1 NET AVAILABLE CASH. Except as otherwise provided in **Section 11.2** hereof relating to the liquidation of the Company, Net Available Cash shall be distributed to the Members in proportion to their Membership Percentages at such times and in such amounts as the Board of Managers shall determine. Notwithstanding the foregoing to the contrary, the Company shall make a distribution of Net Available Cash, provided sufficient amounts are available, no later than the 15th day of each month to 105 Spencer Street, LLC in an amount sufficient to pay the monthly debt obligation 105 Spencer Street, LLC incurred to make its equity investment in the Company provided, however, that such distributions to 105 Spencer Street, LLC shall be proportionate to its Membership Percentage. Notwithstanding the above, in no event shall the Company make any distributions of Net Available Cash to the Members if such distribution would violate the provisions of the Act or any agreement to which the Company may be bound.

5.2 AMOUNTS WITHHELD. All amounts withheld pursuant to the Code or any provision of state or local law with respect to any payment or distributions by the Company to the Members shall be treated as amounts distributed to the Members pursuant to this **Section 5** for all purposes under this Agreement. The Board of Managers may allocate any such amounts among the Members in any manner that is in accordance with applicable law.

SECTION 6 MANAGEMENT

6.1 BOARD OF MANAGERS.

(a) Board of Managers. Management of the Company shall be vested in a committee comprised of four (4) Managers appointed by the Members (the “Board of Managers”, each member thereof being referred to herein as a “Manager”). Each Member shall have the right to appoint two (2) of the four (4) Managers. Each person so appointed, while serving on the Board, shall be referred to herein as a “Manager” and all the members of the Board shall be referred to herein collectively as the “Managers.” The initial members of the Board of Managers are set forth on Exhibit “D” hereto (the “Initial Managers”), each of whom is hereby appointed as a Manager.

Each Manager shall serve as a Manager until the expiration of his/her term as provided in this Section 6.1(e) and the appointment of his/her successor, or until he/she resigns, is removed as hereinafter provided, or dies.

(b) A Manager may be removed at any time, with or without cause, by Majority Vote of the Members, or by notice of removal from the Member who appointed the removed Manager.

(c) The Member whose appointed Manager is removed, resigns, or dies, shall promptly designate a successor. Until a vacancy is filled, the number of members of the Board of Managers shall be reduced to the then current number of members.

(d) Except as otherwise provided herein, all actions requiring the approval of the Board of Managers shall require prior approval of at least 66 2/3% of the Managers.

6.2 AUTHORITY OF THE BOARD OF MANAGERS. Except to the extent otherwise provided in this Agreement and subject to any requirement in this Agreement for prior approval of the Members, the Board of Managers shall have the sole and exclusive right to manage the business of the Company and shall have all of the rights and powers which may be possessed by managers under the Act including, without limitation, the right and power to:

(a) acquire by purchase, lease or otherwise any personal property which may be necessary, convenient or incidental to the accomplishment of the purposes of the Company;

(b) finance, own, sell, convey, assign, mortgage and lease any personal property necessarily convenient or incidental to the accomplishment of the purposes of the Company;

(c) execute any and all agreements, contracts, documents, certifications and instruments necessary or convenient in connection with the management, maintenance and operation of the assets and property of the Company;

(d) borrow money and issue evidences of indebtedness necessary, convenient or incidental to the accomplishment of the purposes of the Company, and secure the same by pledge or other lien on any property;

(e) execute, in furtherance of any or all of the purposes of the Company, any deed, lease, mortgage, deed of trust, mortgage note, promissory note, bill of sale, contract or other instrument purporting to convey or encumber any or all of the assets or property of the Company;

(f) prepay in whole or in part, refinance, recast, increase, modify or extend any liabilities affecting the assets or property of the Company and, in connection therewith, execute any extensions or renewals of encumbrances on any or all of the assets or property of the Company;

(g) care for and distribute funds to the Members by way of cash, income, return of capital, or otherwise, all in accordance with the provisions of this Agreement, and perform all matters in furtherance of the objectives of the Company or this Agreement;

(h) contract on behalf of the Company for the employment and services of employees and/or independent contractors and delegate to such Persons the duty to manage or supervise any of the assets or operations of the Company;

(i) expend the capital and income of the Company to the extent permitted by this Agreement;

(j) ask for, collect and receive any rents, issues and profits or income from the assets or property of the Company or any part or parts thereof and to disburse Company funds for Company purposes to those Persons entitled to receive the same;

(k) purchase from or through others, contracts of liability, casualty or other insurance for the protection of the property or affairs of the Company or the Members or for any purpose convenient or beneficial to the Company;

(l) institute, prosecute, defend, settle, compromise and dismiss lawsuits or other judicial or administrative proceedings brought on or in behalf of, or against the Company or the Members or the Managers in connection with activities arising out of connected with or incidental to this Agreement and to engage counsel or others in connection therewith;

(m) engage in any kind of activity and perform and carry out contracts of any kind (including contracts of insurance covering risks to the property and Manager liability) necessary or incidental to, or in connection with, the accomplishment of the purposes of the Company, as may be lawfully carried on or performed by a limited liability company under the laws of each state in which the Company is then formed or qualified;

(n) form, transfer personal property assets of the Company to, and manage the business and affairs of one or more subsidiary entities; and

(o) make any and all elections for federal, state and local tax purposes including, without limitation, any election, if permitted by applicable law: (i) to adjust the basis of Company Property pursuant to Code Sections 754, 734(b) and 743(b) or the comparable provisions of state or local law, in connection with transfers of interests in the Company and Company distributions; (ii) to extend the statute of limitations for assessment of tax deficiencies against Members with respect to adjustments to the Company's federal, state or local tax returns; and (iii) to represent the Company and the Members before taxing authorities or courts of competent jurisdiction in tax matters affecting the Company and the Members in their capacity as Members and to execute any agreements or other documents relating to or affecting such tax matters, including agreements or other documents that bind the Members with respect to such tax matters or otherwise affect the rights of the Company or the Members. The President is specifically authorized to act as the "Tax Matters Partner" under the Code and in any similar capacity under state or local law until such time, if ever, that the Board of Managers designates in writing a different individual to serve as the Tax Matters Partner.

6.3 RIGHT TO RELY ON MANAGER. Any Person dealing with the Company may rely upon a certificate signed by any Manager as to:

(a) the identity of any Manager or Member and/or the identity of any individual authorized to represent a Manager;

(b) the existence or nonexistence of any fact or facts which constitute a condition precedent to acts by a Manager or which are in any other manner germane to the affairs of the Company;

(c) the Persons who are authorized to execute and deliver any instrument or document on behalf of the Company; or

(d) any act or failure to act by the Company or any other matter whatsoever involving the Company or any Member.

6.4 PROHIBITED TRANSACTIONS.

(a) Notwithstanding any other provision of this Agreement, the Board of Managers shall not:

(1) do any act in contravention of this Agreement;

(2) do any act which would make it impossible to carry on the ordinary business of the Company; or

(3) knowingly perform any act that would subject any Members to liability in any jurisdiction.

(b) Notwithstanding any other provision of this Agreement, the Board of Managers shall not take any action reserved to the Members in Section 3.11 hereof, or in any other part of this Agreement or in the Act.

6.5 DUTIES AND OBLIGATIONS OF THE MANAGERS.

(a) The Managers shall cause the Company to conduct its business and operations separate and apart from that of any Member or Manager or any Affiliates thereof, including, without limitation: (i) segregating Company assets and not allowing funds or other assets of the Company to be commingled with the funds or other assets of, held by, or registered in the name of, any Member or Manager or any Affiliate thereof; (ii) maintaining books and financial records of the Company separate from the books and financial records of any Members or Manager or any Affiliates thereof, and maintaining minutes of Company meetings and (iii) acting on behalf of the Company only pursuant to due authorization of the Members or this Agreement; (iv) causing the Company to pay its liabilities from assets of the Company; and (v) causing the Company to conduct its dealings with third parties in its own name and as a separate and independent entity.

(b) The Managers shall take all actions which may be necessary or appropriate: (i) for the continuation of the Company's valid existence as a limited liability company under the laws of the State of New York and of each other jurisdiction in which such existence is necessary to protect the limited liability of the Members or to enable the Company to conduct the business of the Company, and (ii) for the accomplishment of the Company's purposes, in accordance with the provisions of this Agreement and applicable laws and regulations.

(c) The Managers shall have a fiduciary duty to conduct the affairs of the Company in the best interests of the Company and of the Members, including the safekeeping and use of all of the Company Property for the exclusive benefit of the Company whether or not in the immediate possession or control of the Managers and shall not use or permit another to use Company Property except for the benefit of the Company.

6.6 INDEMNIFICATION OF THE MANAGERS AND MEMBERS.

(a) No Manager of the Company shall be liable to the Company or its Members for monetary damages for an act or omission in such person's capacity as a Manager, except for: (i) acts or omissions which the Manager knew at the time of the acts or omissions were clearly in conflict with the interests of the Company; (ii) any transaction from which the Manager derived an improper personal benefit; or (iii) acts or omissions occurring prior to the date of this Agreement. If the Act is hereafter amended to authorize action further eliminating or limiting the liability of managers, then the liability of the Managers shall be eliminated or limited to the fullest extent permitted by the Act as so amended. Any repeal or modification of the governing sections of the Act shall not adversely affect the right or protection of a Manager existing immediately before such repeal or modification as to matters arising or occurring prior to such repeal or modification.

(b) The Company shall indemnify each Manager and Member to the fullest extent permitted or required by the Act, as amended from time to time. The Company may advance expenses incurred by a Manager or Member upon the approval of the disinterested Managers and the receipt by the Company of an undertaking by such Manager or Member to reimburse the Company unless it shall ultimately be determined that such Manager or Member is entitled to be indemnified by the Company against such expenses. The Company may also indemnify its employees and other representatives or agents up to the fullest extent permitted under the Act or other applicable law, provided that the indemnification in each such situation is first approved by the Board of Managers.

(c) The indemnification provided by this Agreement shall: (i) not be deemed exclusive of any other rights to which a person seeking indemnification may be entitled under any statute, agreement, Majority Vote of the Members or disinterested Managers, or otherwise, both as to action in official capacities and as to action in another capacity while holding such office; (ii) continue as to a person who ceases to be a Manager or Member; (iii) inure to the benefit of the estate, heirs, executors, administrators or other successors of an indemnitee; and (iv) not be deemed to create any rights for the benefit of any other Person.

6.7 COMPENSATION AND EXPENSES OF MANAGERS.

No Manager shall receive any fees or other compensation for serving as a Manager, unless such fees or other compensation are approved by Majority Vote of the Members. However, each Manager (if such Manager is also a Member) shall be entitled to any distributions and allocations provided for elsewhere in this Agreement.

6.8 MEETINGS OF THE BOARD OF MANAGERS.

(a) The Board of Managers shall not be required to hold regular meetings. Special meetings of the Board of Managers may be called by any Manager. Notice of each such special meeting shall be given to each Manager by telephone, telecopy, telegram, electronic means (*i.e.*, e-mail) or similar method (in each case, notice shall be given at least twenty-four (24) hours before the time of the meeting) or sent by first class mail (in which case, notice shall be given at least five (5) days before the meeting), unless a longer notice period is established by the Board of Managers. Each such notice shall state (i) the time, date, place (which shall be at the principal place of business of the Company unless otherwise agreed to by all Managers) or other means of conducting such meeting and (ii) the purpose of the meeting to be so held. No actions other than those specified in the notice may be considered at any special meeting unless unanimously

approved by the Managers. Any Manager may waive notice of any meeting in writing before, at, or after such meeting. The attendance of a Manager at a meeting shall constitute a waiver of notice of such meeting, except when a Manager attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not properly called.

(b) Any action required to be taken at a meeting of the Managers, or any action that may be taken at a meeting of the Managers, may be taken at a meeting held by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other. Participation in such a meeting shall constitute presence in person at such meeting.

(c) Notwithstanding anything to the contrary in this Section 6.8, the Managers may take without a meeting any action that may be taken by the Managers under this Agreement if such action is approved by the unanimous written consent of the Managers.

SECTION 7

[INTENTIONALLY OMITTED]

SECTION 8

BOOKS AND RECORDS

8.1 BOOKS AND RECORDS. The Company shall keep adequate books and records at its place of business, setting forth a true and accurate account of all business transactions arising out of and in connection with the conduct of the Company and shall maintain all records required to be maintained by the Act. Any Member or any Member's designated representative shall have the right, at any reasonable time and at the Member's own expense, to have access to and inspect and copy the contents of such books or records. Within a reasonable period after the end of each Company fiscal year, each Member shall be furnished with an annual report containing a balance sheet as of the end of such fiscal year, statements of income, Members' equity, changes in financial position and cash flow and any necessary tax information for the year then ended.

SECTION 9

AMENDMENTS

9.1 Amendments.

(a) Amendments to this Agreement may be made upon the approval of the Members.

(b) Notwithstanding Section 9.1(a) hereof, this Agreement shall not be amended without the consent of each Member adversely affected if such amendment would: (A) modify the limited liability of a Member; (B) increase the obligation of any Member to make contributions; (C) decrease the affirmative vote or consent required for any action set forth herein requiring the vote of the Members; or (D) alter the interest of a Member in Profits, Losses, or any Company distribution.

SECTION 10

TRANSFERS OF MEMBERSHIP INTERESTS

10.1 RESTRICTION ON TRANSFERS.

(a) Except as otherwise permitted in this Section 10, no Member shall Transfer all or any portion of his/her Membership Interest without the consent of more than 66 2/3% of the members (exclusive of any member who is also a transferring Member). Any Transfer or attempted Transfer by a Member in violation of the preceding sentence shall be null and void and of no effect whatsoever and shall constitute an Adverse Act. Each Member hereby acknowledges the reasonableness of the restrictions on Transfer imposed by this Agreement in view of the Company purposes and the relationship of the Members and agrees that the restrictions on Transfer contained herein shall be specifically enforceable. Each Member hereby further agrees to hold the Company and each Member (and each Member's successors and assigns) wholly and completely harmless from any cost, liability, or damage (including, without limitation, any incremental tax liability and attorneys' fees and expenses and costs of enforcing this indemnity) incurred by any such indemnified Persons as a result of a Transfer or any attempted Transfer in violation of this Agreement.

(b) Notwithstanding the above, nothing herein contained shall be deemed to prohibit a Member from pledging or hypothecating all or any portion of his Membership Interest to an Institutional Lender (an "Institutional Pledge") in connection with any (1) a loan made to the Member for the purpose of providing the Member with the funds necessary to make the Capital Contribution (a "Contribution Loan") required pursuant to **Section 3.2** hereof, or (2) a loan made to the Member for the purpose of additional improvements to the Property.

10.2 PERMITTED TRANSFERS. Subject to the conditions and restrictions set forth in Section 10.3 hereof, a Member may Transfer all or any portion of its Membership Interest to any other Member, and/or the Membership Interest of 105 Spencer Street, LLC in the Company may be transferred to any other entity or individual with a familial, corporate, or partner relationship to any of 105 Spencer Street, LLC's constituent Members in existence at the time of 105 Spencer Street, LLC's initial capitalization. Such transfers are "Permitted Transfers."

10.3 CONDITIONS TO PERMITTED TRANSFERS. A Transfer under Section 10 shall not be effective unless and until the following conditions are satisfied:

(a) The transferor (or his personal representative, as the case may be) and the transferee shall execute and deliver to the Company such documents and instruments of conveyance as may be necessary or appropriate, in the opinion of counsel to the Company, to effect such Transfer.

(b) If requested by the Board of Managers, the transferor (or his personal representative, as the case may be) shall furnish to the Company an opinion of counsel, which opinion shall be satisfactory to the Board of Managers, that the Transfer will not cause the Company to terminate for federal income tax purposes.

(c) The transferor (or his personal representative, as the case may be) and the transferee shall furnish the Company with sufficient information to determine the transferee's initial tax basis in the Membership Interests Transferred, and any other information reasonably

necessary to permit the Company to file all required federal and state tax returns and other legally required information statements or returns.

(d) Either: (i) the Membership Interests being Transferred shall be registered under the Securities Act of 1933, as amended, and any applicable state securities laws; or (ii) the transferor (or his personal representative, as the case may be) shall provide an opinion of counsel, which opinion of counsel shall, if requested by the Board of Managers, be satisfactory to the Board of Managers, to the effect that such Transfer is exempt from all applicable registration requirements and that such Transfer will not violate any applicable laws regulating the Transfer of securities.

(e) The transferor (or his personal representative, as the case may be) shall provide an opinion of counsel, which opinion shall be reasonably satisfactory to the Board of Managers, to the effect that such Transfer will not cause the Company to be deemed to be an “investment company” under the Investment Company Act of 1940.

(f) The Company shall be reimbursed by the transferor for all reasonable costs and expenses incurred by the Company (including attorneys’ fees) in connection with the Transfer.

(g) At the time of the Transfer, the Transferring Member may not also be an Adverse Member.

10.4 Right of First Refusal. Notwithstanding the other limitations and restrictions set forth in this **Section 10**, except as permitted by **Section 10.2** hereof, no Member shall Transfer all or any portion of his Interest (the “**Offered Interest**”) unless such Member (the “**Seller**”) first offers to sell the Offered Interest pursuant to the terms of this **Section 10.4**.

(a) No Transfer may be made under this **Section 10.4** unless the Seller has received a bona fide written offer (the “**Purchase Offer**”) from a Person (the “**Purchaser**”) to purchase the Offered Interest for a purchase price denominated and payable in United States dollars at closing or according to specified terms, with or without interest, which offer shall be in writing signed by the Purchaser and shall be irrevocable for a period of not less than one hundred twenty (120) days.

(b) Prior to making any Transfer that is subject to the terms of this **Section 10.4**, the Seller shall give to the Company and each other Member written notice (the “**Offer Notice**”) which shall include a copy of the Purchase Offer. The Offer Notice shall automatically be deemed to constitute an offer (the “**Firm Offer**”) to sell the Offered Interest to the remaining Members (the “**Offerees**”) for the price (the “**Offer Price**”) equal to the price set forth in the Purchase Offer. The Offer Price shall be payable according to the same terms as those contained in the Purchase Offer, provided that the Firm Offer shall be deemed made without regard to the requirement of an earnest money or similar deposit required of the Purchaser prior to closing, and without regard to any security (other than the Offered Interest) to be provided by the Purchaser for any deferred portion of the Offer Price.

(c) The Offerees shall have sixty (60) days from the date the Members are notified of the Net Equity of the Company during which to either accept or reject the Firm Offer (the “**Offer Period**”). Each Offeree may accept the Firm Offer as to all or any portion of the Offered

Interest by giving written notice of such acceptance to the Seller and the Managers which notice shall indicate the maximum portion of the Offered Interest such Offeree is willing to purchase. In the event the Offerees (the “**Accepting Offerees**”), in the aggregate, accept the Firm Offer with respect to all of the Offered Interest, the Firm Offer shall be deemed accepted and each such Accepting Offeree shall be deemed to have accepted that portion of the Offered Interest that corresponds to the ratio of that portion of the Offered Interest the Accepting Offeree indicated a willingness to purchase to the aggregate portion of the Offered Interest all Accepting Offerees indicated a willingness to purchase. If the Offerees do not accept the Firm Offer as to all of the entire Offered Interest within the Offer Period, the Firm Offer shall be deemed rejected in its entirety. For purposes of clarity, the Offerees, individually or collectively, must purchase the entire offered portion, and are not entitled to purchase less than one hundred percent of the Offered Interest.

(d) In the event the Firm Offer is accepted in accordance with the above, the closing of the sale of the Offered Interest shall take place within thirty (30) days after the Firm Offer is accepted or, if later, the date of closing set forth in the Purchase Offer. The parties shall execute such documents and instruments as may be necessary or appropriate to effect the sale of the Offered Interest pursuant to the terms of the Firm Offer and this **Section 10**.

(e) If the Firm Offer is not accepted in the manner hereinabove provided, the Seller may sell the Offered Interest to the Purchaser at any time within sixty (60) days after the last day of the Offer Period, provided that such sale shall be made on terms no more favorable to the Purchaser than the terms contained in the Purchase Offer and provided further that such sale complies with all other terms, conditions and restrictions of this Agreement that are applicable to sales of Interests and are not expressly made inapplicable to sales occurring with the terms of the preceding sentence. In the event the Interest is not sold within such sixty (60) day period, the Offered Interest shall again become subject to all of the conditions and restrictions of this **Section 10.4**.

(f) The provisions of this **Section 10.4** shall also apply to the transfer of any interest in any entity holding an Interest in the Company, except (1) a Permitted Transfer, (2) transfer of any interest in an entity holding an Interest in the Company to any other entity or individual with a familial, corporate, or partner relationship with the transferring member, (3) transfer of an interest to a constituent member of an entity holding an interest in the Company, or (4) transfer to RSM Medical Associates, PLLC, or any of its members, shall not provide a right of first refusal to any member of the Company.

10.5 INVOLUNTARY TRANSFERS. This section 10.4 shall apply to any Involuntary Transfer of a Member’s Interest.

(a) “Involuntary Transfer” shall mean any involuntary transfer or attempted transfer of a Member’s Interest, including, without limitation:

- (1) The filing of a petition in bankruptcy by or against a Member;
- (2) An attachment of a Member’s Interest;
- (3) An execution upon a Member’s Interest; and
- (4) Transfer ordered pursuant to a decree in divorce; and
- (6) Any other transfer or encumbrance ordered by a court of law or determined or

awarded in any other type of proceeding, including arbitration, which determination or award could be enforced in a court of law.

(b) In the event of an Involuntary Transfer of a Member's Interest, the Company shall have an immediate and continuing right to purchase the Member's Interest or, as the case may be ("Involuntary Transfer Option"). The Involuntary Transfer Option may be exercised at any time by the Company during the five year period commencing on the later of (i) the date on which the Involuntary Transfer occurred or (ii) the date on which the Company received actual notice of the Involuntary Transfer and the identity of the transferee.

(c) The Company may exercise the Involuntary Transfer Option by written notice to the transferee and the subject Member.

(d) The Purchase Price shall be the Member's Capital Account, (without Gross Asset Value adjustment and excluding goodwill and going concern value). The Purchase Price shall be the lesser of the amounts that are determined for (i) the last day of the month immediately preceding the date of the Involuntary Transfer or (ii) the last day of the month immediately preceding the date the Involuntary Transfer Option is exercised by the Company. The Purchase Price shall be paid in 60 equal monthly installments of principal and interest, with interest fixed on the date of the note at the then prime rate of interest as set forth in the Wall Street Journal.

10.6 RIGHTS OF UNADMITTED ASSIGNEES.

(a) A Person who acquires a Membership Interest but who is not admitted as a Member with respect to such Membership Interests in accordance with this Agreement shall be entitled only to allocations and distributions with respect to such Membership Interest in accordance with this Agreement (the "Economic Rights"), shall have no right to any information or accounting of the affairs of the Company, shall not be entitled to participate in the management of the Company, shall not be entitled to inspect the books or records of the Company, and shall not have any of the rights of a Member under the Act or this Agreement (collectively, the "Non-Economic Rights"), except as to the allocations and distributions with respect to such Membership Interest as set forth in this Section 10.6(a).

(b) In the event of a Transfer of Membership Interests to a Person who is not admitted as a Member with respect to such Membership Interests, the Transferring Member shall automatically be deemed to have sold, assigned and conveyed to the Company all of the Non-Economic Rights associated with the Transferred Membership Interests.

(c) Any Person who is the Assignee of any Membership Interests as herein permitted and who is not admitted as a Member with respect to such Membership Interests and who desires or who shall be required to make a further assignment of any such Membership Interests shall be subject to all of the provisions of this Section 10 to the same extent and in the same manner as any Member desiring to make a Transfer of any Membership Interests.

(d) Notwithstanding anything contained in this Agreement to the contrary (including but not limited to **Section 10.8** hereof), in the event an Institutional Lender becomes an Assignee of a Member's Membership Interest as a result of such Institutional Lender exercising

its rights pursuant to an Institutional Pledge, or other pledge pursuant to Section 10.1(b) of this Agreement, such Institutional Lender shall, at such Institutional Lender's request, be deemed admitted as a Member with respect to such Membership Interest for so long as any portion of the Contribution Loan remains unpaid.

10.7 ADMISSION OF ASSIGNEES AS MEMBERS. Subject to the other provisions of this Section 10, a Permitted Transferee of any Membership Interest may be admitted to the Company as a Member with respect to such Membership Interest only upon satisfaction of the conditions set forth below:

(a) The Membership Interests with respect to which the transferee is being admitted were acquired by means of a Permitted Transfer;

(b) The transferee becomes a party to this Agreement as a Member and executes such documents and instruments as the Board of Managers may reasonably request (including, without limitation, amendments to the Articles) as may be necessary or appropriate to confirm such transferee as a Member in the Company and such transferee's agreement to be bound by the terms and conditions hereof;

(c) The transferee pays or reimburses the Company for all reasonable legal, filing, and publication costs that the Company incurs in connection with the admission of the transferee as a Member with respect to the Transferred Membership Interests; and

(d) If the transferee is not an individual of legal majority, the transferee provides the Company with evidence satisfactory to counsel for the Company of the authority of the transferee to become a Member and to be bound by the terms and conditions of this Agreement.

10.8 LEGEND. Each Member hereby agrees that the following legend maybe placed upon any counterpart of this Agreement, the Articles, or any other document or instrument evidencing ownership of Membership Interests:

The Membership Interests represented by this document have not been registered under any securities laws and the transferability of such Membership Interests is restricted. Such Membership Interests may not be sold, assigned or transferred, nor will any assignee, vendee, transferee or endorsee thereof be recognized by the issuer as having acquired any such Membership Interests for any purposes, unless (1) a registration statement under the Securities Act of 1933, as amended, with respect to such Membership Interests shall then be in effect and such transfer has been qualified under all applicable state securities laws, or (2) the availability of an exemption from such registration and qualification shall be established to the satisfaction of counsel to the Company.

The Membership Interests represented by this document are subject to further restriction as to their sale, transfer, hypothecation, or assignment as set forth in the Operating Agreement and agreed to by each Member. Said restriction provides, among other things, that no Membership Interests may be transferred without first offering such Membership Interests to the other Members, and that no vendee,

transferee, assignee, or endorsee of a Member shall have the right to become a substituted Member without the consent of the Board of Managers which consent may be given or withheld in the sole and absolute discretion of the Board of Managers.

SECTION 11 DISSOLUTION AND WINDING UP

11.1 DISSOLUTION. The Company shall dissolve upon the first to occur of any of the following events (each a "Liquidating Event"):

- (a) The sale by the Company of all or substantially all its Property;
- (b) The vote of the Members to dissolve the Company;
- (c) The happening of any other event that makes it unlawful, impossible or impractical to carry on the business of the Company; or
- (d) A complete cessation of the Company's business.

The Members hereby agree that, notwithstanding any provision of the Act, the Company shall not dissolve prior to the occurrence of a Liquidating Event. If it is determined by a court of competent jurisdiction that the Company has dissolved prior to the occurrence of a Liquidating Event then the Members hereby agree to continue the business of the Company without winding up or liquidation.

11.2 WINDING UP. Upon dissolution of the Company, the Board of Managers or court appointed trustee if there is no Manager shall take full account of the Company's liabilities and assets. The assets and properties of the Company shall be liquidated as promptly as is consistent with obtaining the fair value thereof, and the proceeds therefrom, to the extent sufficient therefor, shall be applied and distributed in the following order:

- (a) First, to the payment and discharge of all of the Company's debts and liabilities (other than to Members), including the establishment of any necessary reserves;
- (b) Second, to the payment and discharge of all of the Company's debts and obligations to Members; and
- (c) The balance, to the Members in accordance with their Capital Accounts after giving effect to all contributions, distributions and allocations for all periods.

11.3 COMPLIANCE WITH TIMING REQUIREMENTS OF REGULATIONS. In the event the Company is "liquidated" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), distributions shall be made pursuant to this Section 11 (if such liquidation constitutes a dissolution of the Company) or Section 5 hereof (if it does not) to the Members who have positive Capital Accounts in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(2). If any Member has a deficit balance in his Capital Account (after giving effect to all contributions, distributions

and allocations for all fiscal years, including the fiscal year such liquidation occurs) such Member shall have no obligation to make any contribution to the capital of the Company with respect to such deficit, and such deficit shall not be considered a debt owed to the Company or any other Person.

11.4 ESTABLISHMENT OF TRUST. In the discretion of the Board of Managers, a pro-rata portion of the distributions that would otherwise be made to the Members pursuant to **Section 11.2** hereof may be distributed to a trust established for the benefit of the Members for the purposes of liquidating Company assets, collecting amounts owed to the Company, and paying any contingent or unforeseen liabilities or obligations of the Company or of the Board of Managers arising out of or in connection with the Company. The assets of any such trust shall be: (a) distributed to the Members from time to time, in the reasonable discretion of the Board of Managers, in the same proportions as the amount distributed to such trust by the Company would otherwise have been distributed to the Members pursuant to this Agreement or (b) withheld to provide a reasonable reserve for Company liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Company provided that such withheld amounts shall be distributed to the Members as soon as practicable.

11.5 RIGHTS OF MEMBERS. Except as otherwise provided in this Agreement, each Member shall look solely to the assets of the Company for the return of his/her Capital Contribution and shall have no right or power to demand or receive property other than cash from the Company. No Member shall have priority over any other Member as to the return of his Capital Contributions, distributions, or allocations.

11.6 DEEMED DISTRIBUTION AND RECONTRIBUTION. Notwithstanding any other provision of this Section 11, in the event the Company is liquidated within the meaning of Regulation Section 1.704-1(b)(2)(ii)(g) but no Liquidating Event has occurred, the assets and the Property of the Company shall not be liquidated, the Company's debts and other liabilities shall not be paid or discharged and the Company's affairs shall not be wound up. Instead, solely for federal income tax purposes, the Company shall be deemed to have contributed its assets and properties in kind to a new limited liability company in exchange for an interest in such company and, immediately thereafter, the Company will be deemed to liquidate by distributing such interests in the new company to the Members.

SECTION 12 REPRESENTATIONS AND WARRANTIES

12.1 REPRESENTATIONS AND WARRANTIES OF THE MEMBERS. Each Member hereby, represents, warrants and acknowledges to each of the other Members as follows:

(a) The Member the full power, legal capacity and authority to enter into this Agreement and to perform his obligations hereunder. This Agreement has been duly executed and delivered by the Member and (assuming the due authorization, valid execution and delivery hereof by each of the other Members) is a legal, valid and binding obligation of such Member, enforceable against such Member in accordance with its terms, except (i) as the same may be limited by bankruptcy, insolvency, reorganization or other laws or equitable principles relating to or affecting the enforcement of creditors' rights, and (ii) that the granting of specific performance is subject to the discretion of a court of equity.

(b) Neither the execution, delivery or performance of this Agreement by the Member nor the performance by the Member of his obligations hereunder (i) will result in any material breach of or default by the Member under any provision of any contract or agreement of any kind to which the Member is a party or by which the Member or to which any property or asset of the Member is subject, (ii) is prohibited by, or requires the Member to obtain or make any consent, authorization, approval, registration or filing under, any statute, law, ordinance, regulation, rule, judgment, decree or order of any court or governmental agency, board, bureau, body, department or authority, or of any other person, (iii) will cause any acceleration of maturity of any note, instrument or other obligation to which the Member is a party or by which the Member is bound or with respect to which the Member is an obligor or guarantor, or (iv) will result in the creation or imposition of any security interest or other lien, or give to any other person any interest or right (including any right of termination or cancellation) in or with respect to, any of the properties, assets, business, agreements or contracts of the Member.

(c) There are no actions, suits, proceedings or investigations, either at law or in equity, or before any commission or other administrative authority in any United States or foreign jurisdiction, of any kind now pending or threatened or proposed against the Member regarding any business being conducted by the Member. Neither the Member nor any of the Member's properties or assets are subject to any judicial or administrative judgment, order, decree or restraint.

(d) The Member is not in violation of any law, rule or regulation, or any order, judgment or decree, in any case applicable to the Member or by which any of such Member's properties or assets are bound or affected.

(e) The Member has filed all foreign, federal, state and local tax returns that are required to be filed by such Member and has paid all taxes shown as due on such returns as well as all other taxes, assessments and governmental charges that are due and payable.

(f) The Member is acquiring the Membership Interests for the Member's own account and not for the account of others. The Membership Interests are not being acquired with a view to their distribution and the Member has no present intent of reselling or otherwise distributing the Membership Interests.

(g) Neither the Company nor anyone else has made any representation or warranty as to the period of time the Member shall be required to own the Membership Interests. The Member is aware that the Membership Interests may have to be held by the Member for an indefinite period of time.

(h) No state or other governmental authority has made any finding or determination relating to the fairness or substantive merit of an investment in the Company.

(i) The Member is aware that an investment in the Company is highly speculative and is capable of bearing the economic risk of such investment.

SECTION 13
MISCELLANEOUS

13.1 NOTICES. Any notice, payment, demand or communication required or permitted to be given by any provision of this Agreement shall be in writing and shall be delivered personally to the Person or to an officer of the Person to whom the same is directed, or sent by regular, registered, or certified mail, or by recognized overnight carrier, addressed as follows: if to the Company, to the Company at the address set forth in Section 2.4 hereof, or to such other address as the Board of Managers may from time to time specify by notice to the Members; if to a Manager, to such Manager at the address set forth in Exhibit "D" hereto or to such other address as a Manager may from time to time specify by notice to the Company; and if to a Member, to such Member at the address set forth on Exhibit "A" hereto or to such other address as such Member may from time to time specify by notice to the Company. Any such notice shall be deemed to be delivered, given and received for all purposes as of the date (i) actually received, if delivered personally or if sent by regular mail or overnight carrier or (ii) as of the date on which the same was deposited in a regularly maintained receptacle for the deposit of United States mail, if sent by registered or certified mail, postage and charges prepaid.

13.2 BINDING EFFECT. Except as otherwise provided in this Agreement, every covenant, term and provision of this Agreement shall be binding upon and inure to the benefit of the Members and their respective heirs, legatees, legal representatives, successors, transferees and assigns.

13.3 CONSTRUCTION. Every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any Member.

13.4 HEADINGS. Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

13.5 SEVERABILITY. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Agreement.

13.6 INCORPORATION BY REFERENCE. Every exhibit, schedule and other appendix attached to this Agreement and referred to herein is hereby incorporated in this Agreement by reference.

13.7 ADDITIONAL DOCUMENTS. Each Member, upon the request of any Manager, agrees to perform all further acts and execute, acknowledge and deliver any documents that may be reasonably necessary, appropriate or desirable to carry out the provisions of this Agreement.

13.8 VARIATION OF PRONOUNS. All pronouns and any variations thereof shall be deemed to refer to masculine, feminine, or neuter, singular or plural, as the identity of the Person or Persons may require.

13.9 NEW YORK LAW. The internal laws of the State of New York shall govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and

duties of the Members. Each Member hereby agrees that the federal and state courts located within Onondaga County, New York shall have the exclusive jurisdiction to determine any and all disputes arising out of or in connection with this Agreement and hereby consents to the personal and subject matter jurisdictions of such court with respect thereto.

13.10 COUNTERPART EXECUTION; SIGNATURES. This Agreement may be executed in any number of counterparts with the same effect as if all of the Members had signed the same document. All counterparts shall be construed together and shall constitute one agreement. Signatures received by facsimile or by electronic mail shall be deemed original signatures for all purposes of this Agreement.

13.11 SPECIFIC PERFORMANCE. The parties acknowledge that they will be irreparably harmed in the event any of the provisions of this Agreement are violated and that the damages that may result therefrom will be difficult, if not impossible, to calculate. Should any dispute arise concerning any matter provided for in this Agreement, the parties agree that an injunction may be issued restraining any of the foregoing events pending the resolution of the controversy. In the event of any controversy concerning any right or obligation of a party, such right or obligation shall be enforceable in a court of equity by a decree of specific performance. Any such remedy, however, shall be cumulative and not exclusive, and shall be in addition to any other remedies which the parties hereto may have.

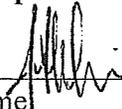
13.12 ENTIRE AGREEMENT. This Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof and supersedes any previous understanding whether oral or written.

[Remainder of page intentionally left blank; signature pages follow.]

**COUNTERPART SIGNATURE PAGE OF THE
OPERATING AGREEMENT OF
706 NORTH CLINTON, LLC**

The undersigned, desiring to become a Member in 706 NORTH CLINTON, LLC, a New York limited liability company, and intending to be legally bound by executing this Counterpart Signature Page, hereby adopt(s) and agree(s) to be bound by the terms and provisions of the Operating Agreement, and hereby authorizes this Counterpart Signature Page to be attached thereto.

105 Spencer Street, LLC


Name: JOSHUA W. PODKAMINER
Title: MEMBER / MANAGER
Date: 2/27/2014

~~**Oneida Preferred Funding Corp. LLC**~~

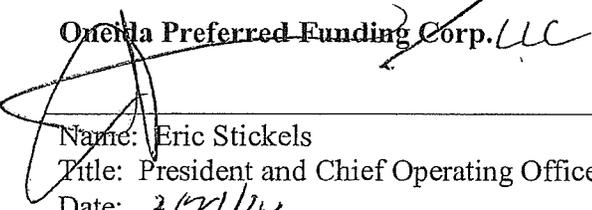

Name: Eric Stickels
Title: President and Chief Operating Officer
Date: 3/21/14

EXHIBIT "A"
OPERATING AGREEMENT OF
706 NORTH CLINTON, LLC
MEMBERS

Name

Address

Oneida Preferred Funding Corp. *LLC*

105 Spencer Street, LLC

148 Berwyn Avenue
Syracuse New York 13210

EXHIBIT "B"
OPERATING AGREEMENT OF
706 NORTH CLINTON, LLC
CAPITAL CONTRIBUTIONS

<u>Name</u>	<u>Capital Contributions</u>
Oneida Preferred Funding Corp. <i>of LLC</i>	\$50,000.00
105 Spencer Street, LLC	\$50,000.00

EXHIBIT "C"
OPERATING AGREEMENT OF
706 NORTH CLINTON, LLC
MEMBERSHIP INTERESTS

<u>Name</u>	<u>Membership Percentage</u>
Oneida Preferred Funding Corp. <i>LLC</i>	50.0%
105 Spencer Street, LLC	50.0%
Total Interests	100.0%

EXHIBIT "D"
OPERATING AGREEMENT OF
706 NORTH CLINTON, LLC
Managers

Managers appointed by 105 Spencer Street, LLC:

J. Andrew Breuer

Joshua W. Podkaminer

LLC

Managers appointed by Oneida Preferred Funding Corp.:

Eric E. Stickels

Pierre J. Morrisseau

APPENDIX "A"
OPERATING AGREEMENT OF
706 NORTH CLINTON, LLC

TABLE OF DEFINITIONS

"Accountants" means the independent accounting firm regularly engaged by the Company to provide audit, consulting, tax or similar type services to the Company. In the event the Company is not then regularly engaging the services of an independent accounting firm, "Accountants" shall mean such independent accounting firm as may be selected by the Board of Managers in its discretion.

"Act" means the Limited Liability Company Act of the State of New York as set forth in Chapter 34 of the Consolidated Laws of the State of New York as the same may be amended from time to time (or any corresponding provisions of succeeding law).

"Additional Capital Contribution" has the meaning set forth in **Section 3.7** hereof.

"Adverse Act" means, with respect to any Member, any of the following:

(a) a Transfer or attempted Transfer of all or any portion of such Member's Membership Interests in the Company except as expressly permitted or required by this Agreement;

(b) an Event of Bankruptcy occurring with respect to any Member;

(c) any other occurrence or transaction that is expressly provided elsewhere in this Agreement as constituting an Adverse Act.

"Adverse Member" shall mean any member who has committed an Adverse Act.

"Affiliate" means with respect to any Person: (i) any Person directly or indirectly controlling, controlled by or under common control with such Person; (ii) any Person owning or controlling 10 percent or more of the outstanding voting securities of such Person; (iii) any officer, director, manager or general partner of such Person; or (iv) any Person who is an officer, director, manager, general partner, trustee or holder of 10 percent or more of the voting securities of any Person described in clauses (i) through (iii) of this sentence.

"Agreement" or "Operating Agreement" means this Operating Agreement as the same may be subsequently amended from time to time. Words such as "herein," "hereinafter," "hereof," "hereto," and "hereunder" refer to this Agreement as a whole, unless the context otherwise requires.

"Articles" means the Articles of Organization filed on behalf of the Company with the Secretary of State of the State of New York on October 26, 2012.

"Assignee" means a Person who is a transferee of all or part of a Member's Membership Interests which Person is not admitted as a Member with respect to such Membership Interests. "Assignees" means all such Persons.

"Cash Flow Deficit" means the amount, as reasonably determined by the Board of Managers, required to meet the Company's projected cash requirements for a specified period of

time, not to exceed one year (the “Notice Period”). In determining the Cash Flow Deficit, the Board of Managers may include the projected cost of: (a) normal and ordinary Company operations, (b) maintenance and improvement of any Property owned by the Company, (c) retiring liabilities as they become due during the Notice Period, and (d) the establishment of any reasonable reserves for the foregoing purposes.

“**Company**” means the limited liability company formed pursuant to this Agreement and the limited liability company continuing the business of this Company in the event of dissolution as herein provided.

“**Contribution Loan**” has the meaning set forth in **Section 10.1** hereof.

“**Deficit Contribution Notice**” means a written notice given by the Board of Managers to the Members which shall: (i) state the amount that the Board of Managers has determined to be the Cash Flow Deficit that the Company is likely to incur during the Notice Period; (ii) summarize with reasonable particularity the basis for such determination; (iii) identify a date (the “Contribution Date”), not sooner than thirty (30) days after the date of the Deficit Contribution Notice upon which the Additional Capital Contribution to fund such Cash Flow Deficit shall be due; and (iv) specify the Membership Percentage of each Member.

“**Economic Rights**” has meaning set forth in **Section 10.6** hereof.

“**Event of Bankruptcy**” means, with respect to any Member, any of the following:

(a) filing a voluntary petition in bankruptcy or for reorganization or for the adoption of an arrangement under the Bankruptcy Code (as now or in the future amended) or an admission seeking the relief therein provided;

(b) making a general assignment for the benefit of creditors;

(c) consenting to the appointment of a receiver for all or a substantial part of such Person’s property;

(d) in the case of the filing of an involuntary petition in bankruptcy, the entry of an order for relief;

(e) the entry of a court order appointing a receiver or trustee for all or a substantial part of such Person’s property without such Person’s consent; or

(f) the assumption of custody or sequestration by a court of competent jurisdiction of all or substantially all of such Person’s property.

“**Fair Market Value**” shall mean:

(a) If the property under consideration consists of Marketable Securities, the Fair Market Value shall be:

(i) in the case of Marketable Securities listed on a national exchange, the average “close” price of the Marketable Securities as listed in *The Wall Street Journal* for the five (5) business days immediately preceding the date on which it is necessary to determine Fair Market Value; and

(ii) in the case of Marketable Securities which are regularly quoted as part of the National Association of Securities Dealers, Inc. Automated Quotation System, the average

of the “bid” and “asked” prices quoted in *The Wall Street Journal* for the five (5) business days immediately preceding the date on which it is necessary to determine Fair Market Value; and

(iii) in the case of Marketable Securities which are quoted in the over-the-counter market, the average of the “bid” and “asked” prices as quoted by the two largest market makers for such Marketable Securities for the five (5) business days immediately preceding the date on which it is necessary to determine Fair Market Value;

in each case reduced by such blockage or other discounts as the Board of Managers (exclusive of the selling Member if such Member is a Manager (the “Remaining Managers”)) shall reasonably determine. The determination of the Remaining Managers as to any such discounts shall be binding and conclusive absent a showing of gross error or fraud.

(b) If the property under consideration is real property or an interest in an entity the principal asset of which consists of real property, the Fair Market Value of the property shall be that amount mutually agreed upon by the Remaining Managers and the selling Member. If the parties are unable to reach agreement on Fair Market Value within thirty (30) days, the Fair Market Value shall be determined in accordance with the following procedures:

(i) The Selling Member, on the one hand, and the Remaining Managers, on the other hand, shall each have the opportunity to appoint, at his or its own cost, an “Appraiser”, within fifteen (15) days of the expiration of the period set forth above. For purposes hereof, an Appraiser shall be a real estate appraiser holding the “MAI” designation and experienced in the appraisal of income producing real estate worth over \$3,000,000. If either party shall fail to appoint an Appraiser within this fifteen (15) day period, the one Appraiser so appointed will unilaterally establish the Fair Market Value. If both parties appoint an Appraiser within this fifteen (15) day period, the two (2) Appraisers shall each establish Fair Market Value within thirty (30) days of the last of their appointments. If the two Appraisers are unable to agree with such thirty (30) day period, they shall on or before such thirtieth day appoint a third Appraiser who shall establish the Fair Market Value.

(ii) The Fair Market Value of the property shall be determined as of the Valuation Date. In making their determination of Fair Market Value Of the property, the Appraisers shall be instructed that they are to consider with respect to the property only the then current use of such property (or the property owned by the entity in which the Company holds an interest). No consideration is to be given to any higher or better use.

(iii) If the property being valued is an interest in an entity the principal asset of which is real property, the Appraisers shall take into account the following valuation adjustments in valuing the interest to the extent applicable: the lack of a ready market for the interest; the interest being transferred is a non-controlling interest, and that the Person acquiring the interest may not be admitted as a member of the entity.

(iv) The determination of the Fair Market Value of any property by the Appraiser(s) shall be binding and conclusive on the selling Member and the Company absent a showing of gross error or fraud.

(c) If the asset under consideration is Non-Marketable Securities, the Fair Market Value of the asset shall be that amount mutually agreed upon by the Remaining Managers, on the one hand, and the selling Member, on the other hand. If the parties are unable to reach an agreement within thirty (30) days, the Fair Market Value of the asset shall be determined by the

Accountants. In making its determination, the Accountants shall consider any appropriate blockage or other discounts in connection with the asset. The determination of the Accountants shall be binding and conclusive absent a showing of gross error or fraud.

“Guarantees” has the meaning set forth in **Section 3.8** hereof.

“Initial Member” means a person admitted as a Member of the Company on or prior to the effective date of this Agreement.

“Institutional Lender” means any banking institution (including but not limited to saving and loan associations or savings banks), insurance company, pension or profit sharing plan or fund, educational institution, or real estate investment trust.

“Institutional Loan” means a loan from an Institutional Lender.

“Institutional Pledge” has the meaning set forth in **Section 10.1** hereof.

“Initial Managers” has the meaning set forth in **Section 6.1** hereof.

“Liquidating Event” has the meaning set forth in **Section 11.1** hereof.

“Board of Managers” has the meaning set forth in **Section 6.1** hereof.

“Majority Vote” means in the case of Members the affirmative vote of Persons holding more than fifty percent (50%) of the total of Membership Percentages then held by all Persons entitled to vote on the matter.

“Manager” means each Initial Manager and each Person who becomes a Manager pursuant to the terms of this Agreement and has not ceased to be a Manager pursuant to the terms of this Agreement. “Managers” means all such Persons.

“Marketable Securities” shall mean all securities which are readily marketable which means they could be sold through security brokers, banks or other similar institutions within a time period not likely to exceed thirty (30) days.

“Members” means all Persons set forth on **Exhibit “A”** hereof and any Person subsequently admitted to the Company as a Member pursuant to the terms hereof for so long as such Persons have not ceased to be a Member pursuant to the terms of this Agreement. “Member” means any one of the Members.

“Membership Percentage” means for each Member the percentage determined by dividing the positive Capital Account Balance of the Member by the sum of the positive Capital Account Balances of all of the Members as of: (i) the most recent fiscal year end of the Company, or (ii) at any time a Gross Asset Value adjustment is made, or (iii) at any time that an Excess Capital Contribution is made.

“Membership Interest” means an ownership interest in the Company including any and all benefits to which the holder of such Membership Interest may be entitled as provided in this Agreement, together with all obligations of such Person to comply with the terms and provisions of this Agreement.

“Net Available Cash” means the gross cash proceeds of the Company whether from Company operations, sales or other dispositions or refinancing of Company assets, less the portion thereof used to pay or establish reserves for all Company expenses, guaranteed payments, debt payments, capital improvements, replacement and contingencies, all as

determined by the Board of Managers. “Net Available Cash” shall not be reduced by depreciation, amortization, cost recovery deductions or similar allowances, but shall be increased by any reductions of reserves previously established.

“**Non-Economic Rights**” has the meaning set forth in **Section 10.6** hereof.

“**Non-Marketable Securities**” means all securities for which a market does not readily exist - *i.e.*, securities which cannot reasonably be expected to be sold through securities brokers, banks or other similar institutions within a time period not likely to exceed thirty (30) days.

“**Permitted Transfer**” has the meaning set forth in **Section 10.2** hereof.

“**Permitted Transferee**” has the meaning set forth in **Section 10.2** hereof.

“**Person**” means any individual, partnership, limited liability company, corporation, trust or other entity.

“**Prime Rate**” means the prime rate (or base rate) reported in the “Money Rates” column or section of *The Wall Street Journal* as being the base rate on corporate loans at larger U.S. Money Center banks on the last business day immediately prior to the date on which it is necessary to determine such Prime Rate; provided, however, in the event *The Wall Street Journal* ceases publication of the Prime Rate, then the “Prime Rate” shall mean the “prime rate” or “base rate” announced by the bank with which the Company has its principal banking relationship (whether or not such rate has actually been charged by that bank) or as otherwise designated by the Board of Managers. In the event that bank discontinues the practice of announcing that rate, Prime Rate shall mean the highest rate charged by that bank on short-term, unsecured loans to its most credit-worthy large corporate borrowers, unless otherwise designated by the Board of Managers.

“**Profits**” and “**Losses**” means, for each fiscal year or other period, an amount equal to the Company’s taxable income or loss for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this Section shall be added to such taxable income or loss;

(b) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv), and not otherwise taken into account in computing Profits or Losses pursuant to this Section shall be subtracted from such taxable income or loss;

(c) In the event the Gross Asset Value of any Company asset is adjusted pursuant to subsections (b) or (d) of the definition of Gross Asset Value hereof the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Profits or Losses;

(d) Gain or loss resulting from any disposition of Company assets with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

(e) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such fiscal year or other period; and

(f) Notwithstanding any other provision of this Section, any items which are specially allocated pursuant to Section (b) or Section (c) of **Appendix "B"** hereof shall not be taken into account in computing Profits or Losses pursuant to this Section.

"Property" means the property, both real, personal, tangible and intangible owned by the Company from time to time.

"Qualified Appraiser" means any professional appraiser or certified public accountant who is qualified by experience and ability to appraise assets and businesses similar to that owned or being conducted by the Company.

"Supermajority Vote" means in the case of Members the affirmative vote of Persons holding more than sixty-six and two-thirds percent (66 2/3%) of the Membership Percentages then held by all Persons entitled to vote on the matter.

"Transfer" means, as a noun, any transfer, sale, pledge, hypothecation, or other disposition, whether voluntary, involuntary or by operation of law, and, as a verb, to transfer, sell, pledge, hypothecate or otherwise dispose of in any manner whatsoever, whether voluntarily, involuntarily or by operation of law.

"Valuation Date" means the last day of the calendar month immediately preceding the date of the occurrence of the Adverse Act, in the case of a purchase pursuant to **Section 10.1** hereof.

APPENDIX “B”
OPERATING AGREEMENT OF
706 NORTH CLINTON, LLC

TAX PROVISIONS

(a) **Definitions.** For purposes of this Agreement, including this **Appendix “B”**, the following terms (as indicated by the first letter of each word being capitalized) shall, unless the context clearly requires otherwise, have the following meanings:

“**Adjusted Capital Account Deficit**” means with respect to any Member, the deficit balance, if any, in such Person’s Capital Account as of the end of the relevant fiscal year, after giving effect to the following adjustments:

(a) Credit to such Capital Account any amounts which such Person is obligated to restore or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(b) Debit to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6) of the Regulations.

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

“**Capital Account**” means with respect to any Member, the Capital Account maintained for such Person in accordance with the following provisions:

(a) To each Person’s Capital Account, there shall be credited such Person’s Capital Contributions, such Person’s distributive share of Profits, and any items in the nature of income or gain that are specially allocated pursuant to **Section (b)** or **(c)** of this **Appendix “B”**, and the amount of any Company liabilities that are assumed by such Person or that are secured by any Company asset distributed to such Person.

(b) To each Person’s Capital Account there shall be debited the amount of cash and the Gross Asset Value of any Company asset distributed to such Person pursuant to any provision of this Agreement, such Person’s distributive share of Losses, any items in the nature of expenses or losses that are specially allocated pursuant to **Section (b)** or **(c)** of this **Appendix “B”**, and the amount of any liabilities of such Person that are assumed by the Company or that are secured by any property contributed by such Person to the Company.

(c) In the event any interest in the Company is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the Transferred Membership Interests.

(d) In determining the amount of any liability for purposes of **subsections (a)** and **(b)** above, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

The forgoing provisions and the other provisions of this Agreement relating to the

maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such Regulations. In the event the Board of Managers shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including without limitation, debits or credits relating to liabilities that are secured by contributed or distributed property or that are assumed by the Company or the Members), are computed in order to comply with such Regulations, the Board of Managers may make such modifications, provided it is not likely to have a material effect on the amounts distributed to any Member pursuant to **Section 11** of the Agreement upon the dissolution of the Company. The Board of Managers also shall (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Members and the amount of Company capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(q) and (ii) make any appropriate modifications in the event unanticipated events (for example, the acquisition by the Company of oil or gas properties) might otherwise cause this Agreement not to comply with Regulation Section 1.704-1(b).

“Capital Contribution” means, with respect to any Member, the amount of money and the initial Gross Asset Value of any property (other than money) contributed to the Company with respect to the Membership Interests in the Company held by such Member.

“Code” means the Internal Revenue Code of 1986, as amended from time to time (or any corresponding provisions of succeeding law).

“Company Minimum Gain” has the meaning set forth in Sections 1.704-2(b)(2) and 1.704-2(d) of the Regulations substituting the term “company” for the term “partnership” whenever the context requires.

“Depreciation” means, for each fiscal year or other period, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable under the Code with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; provided, however, that if the federal income tax depreciation, amortization or other cost recovery deduction for such year is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Board of Managers.

“Gross Asset Value” means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(a) The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset, as determined by the contributing Member and the Company;

(b) The Gross Asset Values of all Company assets shall be adjusted to equal their respective gross fair market values, as determined by the Board of Managers, as of the following times: (i) the acquisition of an additional interest in the Company by any new or existing Member in exchange for more than a de minimis Capital Contribution; (ii) the distribution by the Company to a Member of more than a de minimis amount of assets as consideration for an

interest in the Company; and (iii) the liquidation of the Company within the meaning of Regulations 1.704-1(b)(2)(ii)(g); provided, however, that the adjustments pursuant to clauses (i) and (ii) above shall be made only if the Board of Managers reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company;

(c) The Gross Asset Value of any Company asset distributed to any Member shall be the gross fair market value of such asset on the date of distribution; and

(d) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulation 1.704-1(b)(2)(iv)(m) and **Section (b)(vi)** of this **Appendix “B”**; provided, however, that Gross Asset Values shall not be adjusted pursuant to this **subsection (d)** to the extent the Board of Managers determines that an adjustment pursuant to **subsection (b)** is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this **subsection (d)**. If the Gross Asset Value of an asset has been determined or adjusted pursuant to **subsections (a), (b) or (d)** hereof, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

“Member Nonrecourse Debt” has the meaning set forth in Sections 1.704-2(i)(1) and 1.704-2(i)(2) of the Regulations substituting the term “member” for the term “partner” whenever the context requires.

“Member Nonrecourse Debt Minimum Gain” means an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Section 1.704-2(i)(3) of the Regulations substituting the term “member” for the term “partner” whenever the context requires.

“Member Nonrecourse Deductions” has the meaning set forth in Sections 1.704-2(i)(1) and 1.704-2(i)(2) of the Regulations.

“Nonrecourse Deductions” has the meaning set forth in Section 1.704-2(b)(1) of the Regulations substituting the term “member” for the term “partner” whenever the context requires.

“Nonrecourse Liability” has the meaning set forth in Section 1.704-2(b)(3) of the Regulations.

“Regulations” means the Income Tax Regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

(b) Special Allocations: Items in the Nature of Income or Gain.

(i) In the event any Member unexpectedly receives any adjustments, allocations or distributions described in Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), or 1.704-1(b)(2)(ii)(d)(6) of the Regulations, items of Company income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate the Adjusted Capital Account Deficit of such Member as quickly as possible; provided, however, that an allocation

pursuant to this **Section (b)(i)** shall be made if and only to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in **Section 4** and this **Appendix "B"** have been tentatively made as if this **Section (b)(i)** of this **Appendix "B"** were not in this Agreement.

(ii) Except as provided in **Section (b)(iii)** hereof, in the event any Member (or Assignee) has a deficit Capital Account at the end of any fiscal year which is in excess of the sum of (i) the amount such Member is obligated to restore, and (ii) the amount such Member is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible; provided, however, that an allocation pursuant to this **Section (b)(ii)** shall be made if and only to the extent that such Member would have a deficit Capital Account in excess of such sum after all other allocations provided for in **Section 4** and this **Appendix "B"** have been tentatively made as if **Section (b)(i)** and this **Section (b)(ii)** were not in this Agreement.

(iii) Except as otherwise provided in Section 1.704-2(f) of the Regulations and notwithstanding any other provision of **Section 4** and this **Appendix "B"**, if there is a net decrease in Company Minimum Gain during any Company fiscal year, each Member shall be specially allocated items of Company income and gain for such year (and, if necessary, subsequent years) in an amount equal to the portion of such Person's share of the net decrease in Company Minimum Gain, determined in accordance with Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(f)(6) and 1.704-2(j)(2) of the Regulations. This **Section (b)(iii)** is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(1) of the Regulations and shall be interpreted consistently therewith.

(iv) Except as otherwise provided in Section 1.704-2(i)(4) of the Regulations and notwithstanding any other provision of **Section 4** and this **Appendix "B"** except **Section (b)(iii)** above, if there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to a Member Nonrecourse Debt during any Company fiscal year, each Person who has a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Section 1.704-2(i)(5) of the Regulations, shall be specially allocated items of Company income and gain for such year (and, if necessary, subsequent years) in an amount equal to the portion of such Person's share of the net decrease in Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(i)(4) and 1.704-2(j)(2) of the Regulations. This **Section (b)(iv)** is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(i)(4) of the Regulations and shall be interpreted consistently therewith.

(v) Any Member Nonrecourse Deductions for any fiscal year or other period shall be specially allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in

accordance with Regulations Section 1.704-2(i)(1).

(vi) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Sections 734(b) or Section 743(b) of the Code is required to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of his interest in the Company, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if such adjustment increases the basis of the assets) or loss (if such adjustment decreases such basis) and such gain or loss shall be specifically allocated to the Members in accordance with their interests in the Company in the event Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies or to the Members to whom such distribution was made in the event Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

(vii) Nonrecourse Deductions for any fiscal year or other period shall be specifically allocated to the Members in proportion to their respective Membership Percentages.

(c) Curative Allocations. The allocations set forth in Sections (b)(i) through (b)(vii) hereof (the "Regulatory Allocations") are intended to comply with certain requirements of the Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss or deductions pursuant to this Section (c). Therefore, notwithstanding any other provisions of Section 4 and this Appendix "B" (other than the Regulatory Allocations) the Board of Managers shall make such offsetting special allocations of Company income, gain, loss or deduction in whatever manner they determine appropriate so that after such offsetting allocations are made, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of the Agreement and all Company items were allocated pursuant to Section 4. In exercising its discretion under this Section (c) of this Appendix "B" the Board of Managers shall take into account future Regulatory Allocations under Sections (b)(iii) and (b)(iv) that, although not yet made, are likely to offset other Regulatory Allocations previously made under Section (b)(v) and (b)(vii).

(d) Other Allocation Rules.

(i) For purposes of determining the Profits, Losses or any other items allocable to any period, Profits, Losses and any such other items shall be determined on a daily, monthly or other basis, as determined by the Board of Managers using any permissible method under Code Section 706 and the Regulations thereunder.

(ii) Except as otherwise provided in this Agreement, all items of income, gain, loss, deduction and any other allocations not otherwise provided for shall be divided among the Members in the same proportions as they share Profits and Losses, as the case may be, for the year.

(iii) The Members are aware of the income tax consequences of the allocations made by Section 4 and this Appendix "B" and hereby agree to be bound by the provisions of Section 4 and this Appendix "B" in reporting their shares of income and loss for income tax purposes.

(iv) Solely for purposes of determining a Member's proportionate share of the "excess nonrecourse liabilities" of the Company within the meaning of Regulations Section 1.752-3(a)(3), the Members' interests in Company Profits shall be deemed equal to their

Membership Percentages.

(v) To the extent permitted by Section 1.704-2(h)(3) of the Regulations, the Board of Managers shall endeavor to treat distributions of Net Available Cash as having been made from the proceeds of a Nonrecourse Liability or a Member Nonrecourse Debt only to the extent that such distributions would cause or increase an Adjusted Capital Account Deficit for any Member.

(vi) Losses allocated to the Members shall not exceed the maximum amount of Losses that can be so allocated without causing the Members to have an Adjusted Capital Account Deficit at the end of any fiscal year. If some, but not all of the Members would have Adjusted Capital Account Deficits as a consequence of an allocation of Losses the foregoing limitation shall be applied on a Member-by-Member basis so as to allocate the maximum Loss to each Member under Section 1.704-1(b)(2)(ii)(d) of the Regulations.

(e) **Tax Allocations: Code Section 704(c).** In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its initial Gross Asset Value.

In the event the Gross Asset Value of any asset is adjusted pursuant to the provisions of this **Appendix "B"** hereof dealing with the definition of Gross Asset Value, subsequent allocations of income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder.

Any elections or other decisions relating to such allocations shall be made by the Board of Managers in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this **Section (e)** are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Person's Capital Account or share of Profits, Losses, other items, or distributions pursuant to any provision of this Agreement.

EXHIBIT "C"
GOOD STANDING CERTIFICATE

State of New York
Department of State } ss:

I hereby certify, that 706 NORTH CLINTON, LLC a NEW YORK Limited Liability Company filed Articles of Organization pursuant to the Limited Liability Company Law on 10/26/2012, and that the Limited Liability Company is existing so far as shown by the records of the Department. I further certify the following:

A Certificate of Publication of 706 NORTH CLINTON, LLC was filed on 02/13/2013.

I further certify, that no other documents have been filed by such Limited Liability Company.



*Witness my hand and the official seal
of the Department of State at the City
of Albany, this 23rd day of July
two thousand and fourteen.*

Anthony Giardina

Anthony Giardina
Executive Deputy Secretary of State

EXHIBIT "D"
RESOLUTION

706 NORTH CLINTON, LLC

CLOSING RESOLUTION

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN TRANSACTION DOCUMENTS WITH RESPECT TO THE 706 NORTH CLINTON, LLC PROJECT WITH CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

WHEREAS, pursuant to an application (the "Application") submitted to the City of Syracuse Industrial Development Agency (the "Agency") by 706 North Clinton, LLC. (the "Company"), the members of the Agency, on December 17, 2013 adopted a resolution (the "Inducement Resolution") whereby the Agency agreed, subject to numerous conditions, to undertake a project: (the "**Project**") consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the "**Facility**"); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, in order to consummate the Project and the granting of the Financial Assistance, the Company proposes to enter into the following documents (hereinafter collectively referred to as the "Company Documents"): (A) a company lease agreement (and a memorandum thereof) (the "Company Lease Agreement") by and between the Company, as landlord and the Agency, as tenant, pursuant to which the Company will lease the Project Facility to the Agency; (B) an agency lease agreement (and a memorandum thereof) (the "Agency Lease Agreement") by and between the Agency, as landlord, and the Company, as tenant, pursuant to which the Agency will sublease the Project Facility back to the Company; (C) and Environmental Compliance and Indemnification Agreement in favor of the Agency and (D) various other agreements and certificates relating to the Project (the "Closing Documents"); and

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS AND MANAGERS OF
706 NORTH CLINTON, LLC

Section 1. The preparation, execution and submission of the Application and all other acts heretofore taken, and all other documents and agreements previously executed, by the Company or by Joshua W. Podkaminer, as Manager or John Andrew Breuer, as Manager, or Eric

E. Stickels, as Manager, or Pierre J. Morrisseau, as Manager of the Company in connection with the Project is hereby ratified, confirmed and approved.

Section 2. The Company is hereby authorized to (A) lease the Project Facility to the Agency pursuant to the Company Lease Agreement; (B) sublease the Project Facility back from the Agency pursuant to the Agency Lease Agreement; (C) convey title to the Equipment pursuant to a bill of sale (the "Bill of Sale") from the Company to the Agency; (D) execute all of the Company Documents and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Company with respect to such lease and sale are hereby ratified, confirmed and approved.

Section 3. The Company is hereby authorized to acquire, renovate and install 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 Company with respect to such acquisition, renovation and installation of the Project Facility are hereby ratified, confirmed and approved.

Section 4. The form and substance of the Company Documents are hereby approved subject to the approval of the Manager of the Company executing same, the execution thereof by such Manager to constitute conclusive evidence of such approval.

Section 5. (A) Any Manager of the Company is hereby authorized, on behalf of the Company, to execute and deliver the Company's Documents and all other agreements, documents, certificates and instruments identified in the Company's Documents, or otherwise required to consummate the Project with the Agency, all in substantially the form thereof presented to the members and/or the Managers of the Company, with such changes, variations, omissions and insertions thereto as the Manager executing same shall approve, the execution thereof by such Manager shall constitute conclusive evidence of such approval and shall be binding on the Company.

(B) Any Manager of the Company is hereby designated as the Authorized Representative of the Company (as defined in and pursuant to the Lease Agreement) and is hereby further authorized, on behalf of the Company, to designate any additional Authorized Representatives of the Company (as defined in and pursuant to the Lease Agreement).

Section 6. The Managers, employees and agents of the Company are hereby authorized and directed for and in the name and on behalf of the Company to do all acts and things required or provided for by any of the provisions of the Company Documents, and to execute and deliver all such additional certificates, instruments and documents, to pay all fees, charges and expenses and to do all further acts and things as may be necessary, or in the opinion of such Manager, employee or agent, acting, desirable or proper to effect the purposes of the foregoing resolutions and to cause compliance by the Company with all of the terms, covenants and provisions of the Company Documents binding upon the Company.

[SIGNATURES ON FOLLOWING PAGE]

Dated: July 30, 2014

MEMBERS:

105 SPENCER STREET, LLC

By: _____
JOSHUA W. PODKAMINER, Manager

ONEIDA PREFERRED FUNDING LLC

By: _____
ERIC E. STICKELS
Title: _____

MANAGERS:

JOSHUA W. PODKAMINER

J. ANDREW BREUER

ERIC E. STICKELS

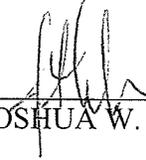


PIERRE J. MORRISSEAU

Dated: July 30, 2014

MEMBERS:

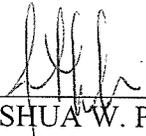
105 SPENCER STREET, LLC

By: 
JOSHUA W. PODKAMINER, Manager

ONEIDA PREFERRED FUNDING LLC

By: _____
ERIC E. STICKELS
Title: _____

MANAGERS:


JOSHUA W. PODKAMINER


J. ANDREW BREUER

ERIC E. STICKELS

PIERRE J. MORRISSEAU

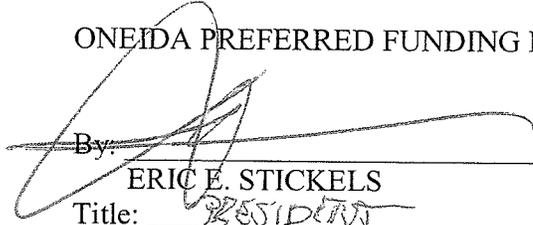
Dated: July 30, 2014

MEMBERS:

105 SPENCER STREET, LLC

By: _____
JOSHUA W. PODKAMINER, Manager

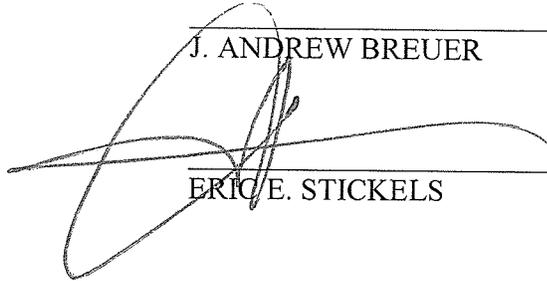
ONEIDA PREFERRED FUNDING LLC

By:  _____
ERIC E. STICKELS
Title: RESIDENT

MANAGERS:

JOSHUA W. PODKAMINER

J. ANDREW BREUER

 _____
ERIC E. STICKELS

PIERRE J. MORRISSEAU

EXHIBIT "E"

LOCAL ACCESS AGREEMENT

City of Syracuse
Industrial Development Agency

APPENDIX B
Local Access Agreement

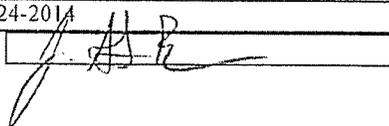
(go back)

Recognizing the goal of SIDA to promote the use of local labor, contractors and suppliers, and in consideration of the extension of financial assistance by the Agency, 706 North Clinton, LLC (the Company) understands that it is the Agency's policy that benefiting companies should utilize local labor and businesses, particularly in the construction phase of a Project. The Company agrees to provide the information requested below as a way to provide access for local participation.

Company	706 North Clinton, LLC				General Contractor	Hueber-Breuer Const. Co., Inc.					
Representative for Contract Bids and Awards	J. Andrew Breuer				Contact	Christopher J. Barnes					
Address	PO Box 515				Address	PO Box 515					
City	Syracuse	ST	NY	Zip	13205	City	Syracuse	ST	NY	Zip	13205
Phone	315-476-7917		Fax	315-476-7990		Phone	315-476-7917		Fax	315-476-7990	
Email	cbarnes@hueber-breuer.com				Email	cbarnes@hueber-breuer.com					
Project Address	706 North Clinton Street				Construction Start Date	July 2014					
City	Syracuse	ST	NY	Zip	13204	Occupancy Date	February 2015				

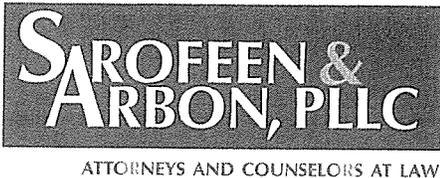
Project Components – Indicate those for which bids will be sought:

Item	Estimated Value	Bid Date	Contact
Site work/Demolition	935,067	6/18/2014	Christopher Barnes
Foundation and footings	65,916	6/18/2014	Christopher Barnes
Building	174,870	6/18/2014	Christopher Barnes
Masonry	63,060	6/18/2014	Christopher Barnes
Metals	354,885	6/18/2014	Christopher Barnes
Wood/casework	249,200	9/15/2014	Christopher Barnes
Thermal/moisture proof	710,303	6/18/2014	Christopher Barnes
Doors, windows, glazing	314,380	6/18/2014	Christopher Barnes
Finishes	479,136	9/15/2014	Christopher Barnes
Electrical	509,802	9/15/2014	Christopher Barnes
HVAC	635,445	9/15/2014	Christopher Barnes
Plumbing	272,677	9/15/2014	Christopher Barnes
Specialties	25,843	9/15/2014	Christopher Barnes
Machinery & Equipment	5,000	9/15/2014	Christopher Barnes
Furniture and Fixtures	18,325	9/15/2014	Christopher Barnes
Utilities	41,425	6/18/2014	Christopher Barnes
Paving	273,390	6/18/2014	Christopher Barnes
Landscaping	61,783	6/18/2014	Christopher Barnes
Other (Arch, Eng, GC's, Misc)	622,860	February 2014	Christopher Barnes

Date: 07-24-2014
 Signature: 

Company: 706 North Clinton, LLC
 Name: J. Andrew Breuer

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One Lincoln Center, Suite 1110
Syracuse, New York 13202
Phone: 315-234-1700
Fax: 315-424-1011
www.sapllclaw.com

July 30, 2014

706 North Clinton, LLC
P.O. Box 515
Syracuse, New York 13205

City of Syracuse Industrial Development Agency
333 West Washington Street, Suite 130
Syracuse, New York 13202

Re: City of Syracuse Industrial Development Agency
Lease/Leaseback Transaction
706 North Clinton, LLC Project

Ladies and Gentlemen:

We have acted as counsel to 706 North Clinton, LLC (the “*Company*”) in connection with a certain project (the “*Project*”) undertaken by the City of Syracuse Industrial Development Agency (the “*Agency*”) at the Company’s request. The Project consists of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the “*Land*”); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the “*Facility*”); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the “*Financial Assistance*”); (C) the appointment of the Company as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Agency has acquired an interest in the Project Facility pursuant to that certain Company Lease Agreement dated as of July 1, 2014 (“*Company Lease*”) between the Company

as lessor and the Agency as lessee and that certain bill of sale from the Company to the Agency dated as of July 1, 2014 (the "**Bill of Sale**"), and appointed the Company as its agent to complete the Project and subleased the Project Facility to the Company pursuant to the Agency Lease Agreement dated as of July 1, 2014 (the "**Agency Lease**") between the Agency and the Company.

The Company has also requested that the Agency grant the Financial Assistance to the Project. The Agency, the Company and the City of Syracuse, New York will enter into a Payment in Lieu of Taxes Agreement dated as of July 1, 2014 (the "**PILOT Agreement**") with respect to the Project. Capitalized terms used herein shall have the meaning given to them in the Agency Lease.

In that regard, we have examined the Company Lease, the Agency Lease, the Bill of Sale, the PILOT Agreement, the Environmental Compliance and Indemnification Agreement and the other documents identified in the Closing Memorandum and defined in the Agency Lease to which the Company is a party (and together with the Company Lease and the Agency Lease referred to collectively as the "**Company Documents**").

We have also examined corporate documents and records of the Company and made such investigation of law and/or fact that we deem necessary or advisable in order to render this opinion. For purposes of such examination, we have assumed the genuineness of all certificates and the authenticity of all documents submitted to us as original counterparts or as certified or photostatic copies; the genuineness of all signatures of all parties to the Company Documents other than on behalf of the Company; and the due authorization, execution and delivery of the Company Documents by and the enforceability thereof against all parties thereto other than the Company.

As to questions of fact material to our opinion, we have relied upon the representations and warranties made by the Company in the Company Documents and upon one or more certificates of officers of the Company. Whenever the phrase "to the best of our knowledge" is used in this opinion, it refers to actual knowledge of members of this firm obtained from our representation of the Company and inquiries of responsible officers of the Company made in connection with this opinion, but no further investigation or review has been conducted.

Based upon the foregoing, it is our opinion that:

1. The Company is a validly existing New York limited liability company and possesses full corporate power and authority to own its property, to conduct its business, to execute and deliver the Company Documents, and to carry out and perform its obligations thereunder.

2. The execution, delivery and performance of the Company Documents have been duly authorized by the Company and the Company Documents have been duly executed and

delivered by an Authorized Representative of the Company.

3. The Company Documents constitute the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with their terms, except as enforceability may be limited by applicable bankruptcy and insolvency laws and laws affecting creditors' rights generally and to the extent that the availability of the remedy of specific performance or injunctive relief or other equitable remedies is subject to the discretion of the court before which any proceeding therefor may be brought.

4. To the best of our knowledge, in reliance on the certificates and opinions specified herein, the execution and delivery by the Company of the Company Documents, the execution and compliance with the provisions of each and the consummation of the transactions contemplated therein do not and will not constitute a breach of, or default under the Company's Articles of Organization, Operating Agreement or any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Company or any of its Property may be bound, for which a valid consent has not been secured; nor is any approval or any action by any governmental authority required in connection with the execution, delivery and performance thereof by the Company.

5. To the best of our knowledge, in reliance on the certificates and opinions specified herein, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened against, or affecting the Company wherein an unfavorable decision, ruling or finding would in any way adversely affect in a material fashion the validity or enforceability of the Company Documents.

Our examination of law relevant to matters herein is limited to the laws of the State of New York and also the Federal law, where appropriate, and we express no opinion as to matters governed by the laws of any other state or jurisdiction.

This opinion is only for the benefit of and may be relied upon only by the Agency, its successors and assigns. The opinions set forth in this letter are limited to those expressly stated and no other opinion may be inferred nor is any implied. No other use of this opinion may be made without prior written consent. This opinion is given as of the date hereof and we undertake no obligation, and hereby disclaim any obligation, to update or supplement this opinion in response to a subsequent change in the law or future events affecting the documents identified in this letter.

Very truly yours,

A handwritten signature in black ink, appearing to be a stylized name, possibly "M. J. ...", written over a horizontal line.

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July 30, 2014

City of Syracuse Industrial Development Agency
333 West Washington Street, Suite 130
Syracuse, New York 13202

706 North Clinton, LLC
c/o Emhoff Associates, LLC
126 North Salina Street
Syracuse, New York 13202

Re: City of Syracuse Industrial Development Agency
706 North Clinton, LLC Project

Ladies and Gentlemen:

We have acted as counsel to the City of Syracuse Industrial Development Agency (the “*Agency*”) in connection with a project (the “*Project*”) undertaken by the Agency at the request of 706 North Clinton, LLC (the “*Company*”) consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the “*Land*”); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the “*Facility*”); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the “*Financial Assistance*”); (C) the appointment of the Company as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Agency acquired an interest in the Project Facility pursuant to that certain Company Lease Agreement dated as of July 1, 2014 (the “*Company Lease*”) between the Company, as lessor and the Agency, as lessee, and that certain bill of sale from the Company to the Agency dated as of July 1, 2014 (the “*Bill of Sale*”), appointed the Company as its agent to complete the Project and subleased the Project Facility to the Company pursuant to the Agency Lease

Agreement dated as of July 1, 2014 (the “*Agency Lease*”) between the Agency and the Company.

The Company has also requested that the Agency grant the Financial Assistance to the Project. The Agency, the Company and the City of Syracuse, New York will enter into a Payment in Lieu of Taxes Agreement dated as of July 1, 2014 (the “*PILOT Agreement*”) with respect to the Project. Capitalized terms used herein shall have the meaning given to them in the Agency Lease.

As counsel to the Agency, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such instruments, certificates, and documents as we have deemed necessary or appropriate for the purposes of the opinion expressed below. In such examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to the original documents of all documents submitted to us as copies, and have assumed the accuracy and truthfulness of the factual information, expectations, conclusions, representations, warranties, covenants and opinions of the Company and its counsel and representatives as set forth in the various documents executed and delivered by them or any of them and identified in the Closing Memorandum in connection with the Project.

We are of the opinion that:

1. The Agency is a duly organized and existing corporate governmental agency constituting a public benefit corporation of the State of New York.
2. The Agency is duly authorized and empowered by law to acquire, reconstruct, renovate and equip the Project, to lease the Facility from the Company pursuant to the Company Lease, to sublease the Project Facility back to the Company pursuant to the Agency Lease and to appoint the Company as its agent for completion of the Project. Capitalized terms used herein and not otherwise defined shall have the meaning given to them in the Agency Lease.
3. The Company Lease, Agency Lease, the PILOT Agreement and the other documents to which the Agency is a party (that are listed on the Closing Memorandum) have been authorized by and lawfully executed and delivered by the Agency and (assuming the authorization, execution, and delivery by the other respective parties thereto) are valid and legally binding obligations enforceable against the Agency in accordance with their respective terms.

In rendering this opinion, we advise you of the following:

The enforceability of the Company Lease, Agency Lease, the PILOT Agreement and other documents to which the Agency is a party that are listed in the Closing Memorandum may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium, or similar law or enactment now or hereafter enacted by the State of New York or the Federal government

City of Syracuse Industrial Development Agency
706 North Clinton, LLC
July 30, 2014
Page 3

affecting the enforcement of creditors' rights generally and the general principles of equity, including limitations on the availability of the remedy of specific performance which is subject to discretion of the court.

This opinion is rendered to the addressees named above and their successors and/or assigns, and may not be relied upon by any other person without our prior, express written consent.

Very truly yours,

HISCOCK & BARCLAY, LLP

Hiscock & Barclay, LLP

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CLOSING MEMORANDUM

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

706 NORTH CLINTON, LLC PROJECT

DATE AND TIME OF CLOSING: July 30, 2014
11:00 a.m.

PLACE OF CLOSING: Hiscock & Barclay, LLP
One Park Place
300 South State Street
Syracuse, New York 13202

I. Action Taken Prior to Closing

At the request of 706 North Clinton, LLC (the "**Company**"), the City of Syracuse Industrial Development Agency (the "**Agency**"), a public benefit corporation organized under the laws of the State of New York, has undertaken a project (the "**Project**") consisting of: (A)(i) the acquisition of a leasehold interest in approximately 56,600 square feet of improved real property located at 706-16 Clinton Street North and Spencer Street in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of approximately 20,000 square feet of deteriorated industrial space; renovation of the remaining 36,600 square feet into Class A office space; remediation of environmental issues; landscaping and site improvements, all located on the Land (the "**Facility**"); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the "**Equipment**") and together with the Land and the Facility, the "**Project Facility**"; (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the "**Financial Assistance**"); (C) the appointment of the Company as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company is, or will be at the time of closing, the owner of the Project Facility.

The Agency will acquire a leasehold interest in the Land and Facility from the Company pursuant to a Company Lease Agreement dated as of July 1, 2014 (the "**Company Lease**"), between the Company, as landlord and the Agency, as tenant. The Agency will acquire an ownership interest in the Equipment pursuant to a Bill of Sale dated as of July 1, 2014 from the Company to the Agency (the "**Bill of Sale**"). The Agency will sublease the Project Facility back to

the Company pursuant to an Agency Lease Agreement dated as of July 1, 2014 (the “*Agency Lease*”) between the Agency, as sublessor and the Company, as sublessee. Capitalized terms used herein and not otherwise defined shall have the meaning given to such terms in Exhibit “C” to the Agency Lease.

Among the actions taken by the Agency with respect to the Project prior to Closing were the following:

- | | |
|-------------------|--|
| November 8, 2013 | The Company submitted an application for financial assistance for the Project. |
| November 19, 2013 | A resolution determining that the acquisition, reconstruction, renovation and equipping of the Project constitutes a project and describing the financial assistance requested and authorizing a public hearing (the “ <i>Public Hearing Resolution</i> ”). |
| November 25, 2013 | Notice of the Public Hearing was mailed to the chief executive officers of the affected tax jurisdictions pursuant to Section 859-a of the Act. |
| December 3, 2013 | Notice of the Public Hearing was published in <u>The Post-Standard</u> pursuant to Section 859-a of the Act. |
| December 17, 2013 | The Agency conducted the Public Hearing pursuant to Section 859-a of the Act. |
| December 17, 2013 | A resolution classifying the Project as an Unlisted Action pursuant to SEQRA, declaring the Agency as Lead Agency for the purposes of an uncoordinated review and determining that the action will not have a significant effect on the environment (the “ <i>SEQRA Resolution</i> ”). |
| December 17, 2013 | A resolution taking official action toward undertaking the acquisition, renovation, reconstruction and equipping of the Project Facility, appointing the Company as agent of the agency for the purpose of the acquisition, reconstruction, renovation and equipping of the Project Facility and authorizing the execution and delivery of an agreement between the Agency and the Company (the “ <i>Inducement Resolution</i> ”). |
| December 17, 2013 | A resolution approving a payment in lieu of tax schedule and authorizing the execution and delivery of certain documents by the Agency in connection with the Project (the “ <i>PILOT Resolution</i> ”). |

December 17, 2013

A resolution authorizing the granting of certain financial assistance and the execution and delivery of certain documents by the Agency in connection with the Project (the “*Final Approving Resolution*”).

II. Action To Be Taken At Closing

The following documents, or copies thereof, are to be delivered (except as indicated) to the Agency (A), Agency's Counsel (AC), the Company (C), Company's Counsel (CC), and the Bank (B) as follows:

A. Basic Documents	Responsible Party	Signatories
1. Company Lease Agreement	AC	C, A
2. Memorandum of Company Lease Agreement with TP-584	AC	C, A
3. Agency Lease Agreement	AC	C, A
4. Memorandum of Agency Lease Agreement with Form TP-584	AC	C, A
5. Company Certification re: Local Labor Policy	AC	C
6. Certificates of casualty, liability, workers' compensation and other required insurance	AC	
7. Environmental Compliance and Indemnification Agreement	AC	C
8. Closing Receipt	AC	C, A
9. Sales Tax Exemption Letter	AC	A
10. Form ST-60 indicating appointment of the Company to act as the agent of the Agency, evidencing filing with the New York State Department of Revenue	AC	A
11. Bill of Sale	AC	C
12. PILOT Agreement	Corporation Counsel	A, C, City (Mayor)
13. 412-a	Corporation Counsel	A
14. Ordinance No. 49 of 2014 approving PILOT schedule		

15. Approval of Mayor of Financial Assistance AC Mayor

B. Items To Be Delivered By The Agency

1. General Certificate of the Agency relating to incumbency and signatures of officers, execution and delivery of Agency Documents to which it is a party, no litigation and continued existence, with the following items included as exhibits: AC A

Exhibit "A" - Chapter 641 of the Laws of 1979 of the State of New York, as amended AC

Exhibit "B" - Certificate of Establishment of the Agency and Certificates of appointment of current members C

Exhibit "C" - By-laws AC

Exhibit "D" - Public Hearing Resolution AC

Exhibit "E" Notice of Public Hearings with evidence of publication and copies of letters to affected tax jurisdictions AC

Exhibit "F" SEQRA Resolution AC

Exhibit "G" Inducement Resolution AC

Exhibit "H" PILOT Resolution AC

Exhibit "I" Final Approving Resolution AC

C. Items To Be Delivered By The Company

1. General Certificate of the Company relating to capacity and signatures of officers, execution and delivery of the Documents to which it is a party, no litigation and approval, with the following items included as exhibits: AC C

Exhibit "A" Articles of Organization C

Exhibit "B" Operating Agreement C C

Exhibit "C" Good Standing Certificate C

Exhibit "D" Approving Resolution C

Exhibit "E" Local Access Agreement C

D. Opinions of Counsel C

1. Opinion of Hiscock & Barclay, LLP, counsel to the Agency, addressed to the Company and the Agency. AC AC

2. Opinion of Sarofeen & Arbon, PLLC, counsel to the Company, addressed to the Agency and the Company. AC CC

III. Action To Be Required Concurrently With Or After Closing

Memorandum of Company Lease Agreement and Memorandum of Agency Lease Agreement are to be filed with the Onondaga County Clerk

Closing completed as above.

IV. Post-Closing

Scan copy of Local Access Agreement to SIDA.

SCHEDULE "A"

PERSONS APPEARING

For the Agency:	City of Syracuse Industrial Development Agency William M. Ryan, Chairman
For the Company:	706 North Clinton, LLC J. Andrew Breuer, Manager Joshua Podkaminer, Manager
For the Company's Counsel:	Sarofeen & Arbon, PLLC Mark Arbon, Esq.
Agency's Counsel:	Hiscock & Barclay, LLP Susan R. Katzoff, Esq.