

RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on August 16, 2016, 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., Steven Thompson, Kenneth Kinsey

The following persons were **ALSO PRESENT:** Staff Present: Honora Spillane, Sue Katzoff, Esq., Judith DeLaney, Meghan Ryan, Esq., John Vavonese, Debra Ramsey-Burns; Others: Ed Riley Gary Thurston, Rob Utter, Phil Korot, Aggie Lane, Chuck Sangster, Barry Lentz, Mike Stanczh, Petes King, Lionel Logan; Media: Rick Moriarty

The following resolution was offered by Donald Schoenwald and seconded by Steven Thompson:

RESOLUTION APPROVING: (i) THE AGENCY'S PARTICIPATION IN THE FINANCING OF THE PROJECT AT THE REQUEST OF THE COMPANY; (ii) AN INCREASE IN THE AMOUNT OF FINANCIAL ASSISTANCE AWARDED TO THE PROJECT IN THE FORM OF AN EXEMPTION FROM MORTGAGE RECORDING TAX; AND (iii) AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH

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 (the "**Enabling Act**"), together with Section 926 of the General Municipal Law, as amended (said Section and the Enabling Act, collectively referred to as, the "**Act**"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research, 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 grant financial assistance in connection with one or more “projects” (as defined in the Act); and

WHEREAS, by resolution adopted on August 16, 2011, the Agency undertook a project (the “**Project**”) at the request of 360 Warren Associates, LLC (the “**Company**”) consisting of: (A)(i) the acquisition of an interest in approximate 130,000 square feet of improved real property located at 125 East Jefferson Street, also known as 352-68 South Warren Street and Jefferson Street in the City of Syracuse, New York (the “**Land**”); (ii) the renovation of approximately 98,000 square feet of the existing building for use as Class A commercial office space (the “**Facility**”); (iii) the acquisition and installation in or on the Facility of furniture, fixtures and equipment, including but not limited to a new roof and HVAC system (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, mortgage recording tax and sales and use taxation (collectively, the “**Original Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, renovation, improvement 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; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency previously conducted an environmental review of the Project under 6 NYCRR Part 617 (“**SEQRA**”) and determined that the Project constituted an "Unlisted Action" which would not have a significant impact on the environment under SEQRA; and

WHEREAS, on or about October 21, 2014, in conjunction with the Project, the Company and the Agency entered into a mortgage in favor of to M&T Bank in the principal amount of \$3,500,000 to secure the Company’s obligations under a corresponding note in the like amount (the “**Original Loan**”); and

WHEREAS, the Company is in the process of closing on its construction financing relative to the Project Facility; and

WHEREAS, the Company intends to enter into a new note and mortgage in favor of M&T Bank in the approximate amount of Thirteen Million, Four Hundred Thousand Dollars (\$13,400,000.00) to secure the construction financing of the Project Facility (the “**New Loan**”); and

WHEREAS, the Company has requested the Agency participate in the construction financing of the Project Facility and the execution and delivery of certain documents, including but not limited to, a Mortgage (the “**Mortgage Documents**”) in favor of M&T Bank relating to the New Loan; and

WHEREAS, the Agency Lease dated as of December 1, 2012, executed by the Company and the Agency in connection with the Project, anticipated the Agency’s participation in additional financings; and

WHEREAS, the Company advised that the increase in its construction financing was caused by increased tenant improvements resulting from new tenancies since the original application and closing and as such it was necessary to restructure its loan with M&T Bank; and

WHEREAS, the amount of the mortgage recording tax exemption sought from the Agency has increased by \$39,000 (the "*Additional Financial Assistance*"); and

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 hereby makes the following findings and determinations:

(a) The approval, execution and delivery of the Mortgage Documents will not result in a change to the Project as originally considered and therefore no further SEQRA action is required; and

(b) The Additional Financial Assistance does not require the holding of a new public hearing as the value thereof is less than \$100,000; and

(c) The Agency has the authority to, and hereby does, approve the execution and delivery of the Mortgage Documents. 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 Mortgage Documents and other documents identified in, or required to carry out the intent of, this Resolution upon the advice of counsel, and to execute and deliver 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. The execution thereof by the Chairman or Vice Chairman constitutes conclusive evidence of such approval; and

(d) The Agency approves the increased exemption from mortgage recording tax in an amount not to exceed \$39,000 as set forth herein as part of the Financial Assistance awarded to the Company.

(2) As a condition precedent to the Agency's participation in the refinance, as set forth herein, the Company will submit to the Agency the appropriate fee, including the Agency's legal fees associated with the construction financing, in exchange for the Agency's participation therein.

(3) Should the Agency's participation in the Mortgage Documents 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 Mortgage Documents, 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.

(4) 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.

(5) 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.

(6) 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, Esq.	X	
Donald Schoenwald, Esq.	X	
Steven Thompson	X	
Kenneth Kinsey	X	

The foregoing Resolution was thereupon declared duly adopted.

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

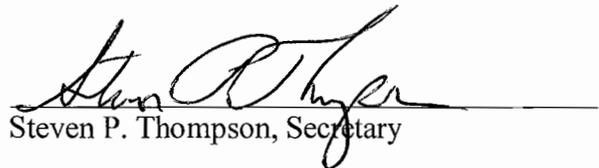
I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “**Agency**”) held on August 16, 2016, with the original thereof 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 16th day of August, 2016.

City of Syracuse Industrial Development Agency


Steven P. Thompson, Secretary

(S E A L)

