

RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on March 5, 2014 at 8:30 a.m. in the Syra-Stat Conference Room, 215 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, Donald Schoenwald, Esq., Pamela Hunter

EXCUSED: M. Catherine Richardson, Esq. (listened via telephone conference),
Steven Thompson

The following persons were **ALSO PRESENT:** **Staff Present:** Benjamin Walsh, Susan Katzoff, Esq., Judith DeLaney, Debra Ramsey-Burns, Thomas Babilon, Esq, Mark McNamara, Esq., Matthew Kerwin, Esq.; **Others Present:** Aggie Lane, Richard Engel, Ed Riley, Justin Gray, Reggie Seigler, Rasta Muhammad, Chris Geiger, Merike Treier, Tracey Keglbein, William Fisher, Kelly Curr, Luke Esposito; **Media:** Rick Moriarty, Jim Kearns

The following resolution was offered by Donald Schoenwald and seconded by Pamela Hunter:

RESOLUTION APPROVING THE AGENCY'S PARTICIPATION IN THE REFINANCING OF PRIOR MORTGAGES AT THE REQUEST OF THE COMPANY IN CONNECTION WITH THE COMPANY'S COSTS ASSOCIATED WITH THE PROJECT FACILITY AND 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, civic 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 grant financial assistance in connection with one or more "projects" (as defined in the Act); and

WHEREAS, by resolution adopted on September 6, 2012, the Agency undertook a project (the "**Project**") at the request of Morgan Pond Street LLC, a New York limited liability company (the "**Company**") consisting of: (A)(i) the acquisition of a leasehold interest in approximately 3.25 acres of improved real property located at 700 First North Street and Pond Street in the City of Syracuse, New York (the "**Land**"); (ii) acquisition of an interest in and the renovation of an approximate 32,800 square foot building for use as a commercial facility (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, mortgage recording tax and sales and use taxation (collectively, the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, renovation 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 by 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 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, in conjunction with the undertaking of the Project, the Company and the Agency entered into a mortgage in favor of to Perticone Holdings LLC in the principal amount of \$1,900,000 to secure the Company's obligations under a corresponding note in the like amount (the "**Loan**"); and

WHEREAS, the Company is in the process of refinancing several of its properties and projects, including but not limited to, the Project Facility; and

WHEREAS, the Company intends to consolidate its debt obligations by entering into a new consolidated note and mortgage in favor of Visions Federal Credit Union in a total amount of Thirteen Million, Four Hundred Thousand Dollars (\$13,400,000.00) to secure the permanent financing of the Project Facility as well as over a dozen other properties (the "**New Loan**"); and

WHEREAS, the Company has requested that the Agency participate in the refinancing of the Project Facility and the execution and delivery of certain documents, including a Mortgage Spreader and Consolidation Agreement (the "**Agreement**") in favor of Visions Federal Credit Union relating to the New Loan; and

WHEREAS, the Agency Lease dated as of September 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 is not seeking an exemption from mortgage recording tax related to the New Loan.

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 Agreement will not result in a change to the Project as originally considered and therefore no further SEQRA action is required; and

(b) The Agency has the authority to, and hereby does, approve the execution and delivery of the Agreement and related 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 Agreement 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.

(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 refinancing, in exchange for the Agency's participation therein.

(3) Should the Agency's participation in the Agreement 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 Agreement, 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:

	AYE	NAY
William Ryan	X	
Donald Schoenwald	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 March 5, 2014, 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 ___ day of April, 2014.

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

By: 
Steven P. Thompson, Secretary

(S E A L)