

APPROVING RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on July 19, 2016 at 8:30 o'clock a.m., local time, 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, Judith DeLaney, Meghan Ryan, Esq., Susan Katzoff, Esq., John Vavonese, Debra Ramsey-Burns; **Others:** Aggie Lane, Lionel Logan, Barry Lentz, Joe Porter, Gary Thurston, Rob Hutter, Esq., Andrew Maxwell, Matt Paulus, Sam White, Petes King, Zachary Benjamin, Thomas Schickel, Reggie Seigler; **Media Present:** Rick Morarity

The following resolution was offered by Donald Schoenwald and seconded by M. Catherine Richardson:

RESOLUTION APPROVING THE AGENCY'S PARTICIPATION IN CONSTRUCTION FINANCING BY THE COMPANY IN CONNECTION WITH THE PROJECT FACILITY; APPROVING AN INCREASE IN THE AMOUNT OF MORTGAGE RECORDING TAX EXEMPTION AWARDED TO THE PROJECT; 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, 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, State Tower Building, LLC, or an entity to be formed, (collectively the "**Company**"), by application dated January 19, 2016 (collectively, the "**Application**"), requested that the Agency undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in approximately 1.2 acres of real property improved by an existing twenty-one (21) story, approximately 211,00 square foot building and garage (the "**Building**") located at 201-19 East Genesee Street & Warren Streets, in the City of Syracuse, New York (the "**Land**"); the renovation of the Building for use as a mixed-use complex including Class A office space and retail on the first 8 floors; approximately 57 market-rate studio, one and two bedroom apartment units on the upper 13 floors; significant façade restoration; and a 100 car on-site parking garage, all located on the Land (the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility 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 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, 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 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 previously conducted an environmental review of the Project 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**"), and determined that the Project constituted an "Unlisted Action" and therefore no further review was required; and

WHEREAS, participation in the Financing Documents and the granting of the Additional Financial Assistance (both as defined herein) are in furtherance of the Financial Assistance that was previously approved for the Project, which underwent an environmental review by the Agency pursuant to the State Environmental Quality Review Act ("**SEQRA**"), and the requested Financing Documents and Additional Financial Assistance are insubstantial and do not require reconsideration or further review by the Agency under SEQRA; and

WHEREAS, the Company's Application originally sought an exemption from mortgage recording tax ("**MRTE**") based upon a \$15,000,000 mortgage to secure both the acquisition and the construction of the Project Facility; and

WHEREAS, in conjunction with the undertaking of the Project, the Company and the Agency entered into a Mortgage and Security Agreement in favor of First Niagara Bank (the "**First Mortgage**") in the principal amount of Two Million Five Hundred Fifty Thousand and 00/100 Dollars (\$2,550,000) to secure the Company's obligation under a corresponding note in a like amount (the "**Loan**") for purposes of acquiring the Facility; and the Agency then provided

the Company with an exemption from the mortgage recording tax otherwise due on the First Mortgage; and

WHEREAS, the Company has now requested that the Agency join in the construction financing associated with the Project Facility by joining in one or more construction mortgages securing corresponding loans in the amount of \$15,600,000 (the “*Construction Loan*”) as well as a bridge loan in the amount of \$2,981,941 (the “*Bridge Loan*” and collectively with the Construction Loan, the “*Additional Financing*”). Such Additional Financing is being provided by S&T Bank, 800 Pennsylvania Street, Indiana, Pennsylvania 15701; and

WHEREAS, the Company advised that there have been unforeseen construction costs and as such the amount of the Construction Loan and corresponding mortgage has increased by \$600,000 from the amount originally projected in its Application; and

WHEREAS, the Company further advised that the Historic Tax Credit (HTC) equity partner the Company originally negotiated with to purchase the HTC has changed causing the schedule of the equity infusion related to the purchase of the HTCs to change thereby requiring the Bridge Loan to cover the extended time period associated with receipt of the HTC equity; and

WHEREAS, the Company is further seeking additional financial assistance in the form of increased MRTE to cover the totality of the Additional Financing which increase is estimated to be \$35,819 (the “*Additional Financial Assistance*”); and

WHEREAS, the MRTE on the Additional Financing does not exceed \$100,000 and therefore no new public hearing is required under the Act; and

WHEREAS, the Agency’s participation in the Additional Financing was contemplated at the time of the closing on the Project and is permitted pursuant to Section 4.5 of the Agency Lease Agreement, as amended from time to time, executed by the parties; and

WHEREAS, the Company understands that since the date of its closing on the Project with the Agency, certain amendments to the Act have occurred that, assuming approval of the Additional Financial Assistance, will require them to provide certain additional certifications to the Agency and execute and deliver certain additional documents, including but not limited to a project agreement.

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, the Agency hereby makes the following findings and determinations:

(a) Participation in the Financing Documents and the granting of Additional Financial Assistance do not amount to a significant change in the Project from what was originally approved by the Agency, and therefore neither further review under SEQRA nor an amendment of the Agency's prior SEQRA negative declaration shall be required.

(b) The Agency confirms all prior resolutions adopted in regard to the Project Facility;

(c) The Agency approves its participation in connection with the Additional Financing as set forth herein and the award of the Additional Financial Assistance; and

(d) The Agency is authorized to: (i) execute and deliver the mortgages securing the Additional Financing; (ii) grant the Additional Financial Assistance and execute and deliver a Mortgage Recording Tax Exemption Affidavit in connection therewith; and (iii) execute and deliver any and all other documents and certificates necessary to effectuate the foregoing and to carry out the intent of this Resolution (collectively the "***Financing Documents***"); and the Chairman and Vice Chairman of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Financing Documents, upon the advice of counsel to the Agency. The execution thereof by the Chairman or Vice Chairman constitutes conclusive evidence of such approval;

Section 2. The Company will submit to the Agency the appropriate fee in exchange for the Agency's grant of the additional financial assistance in the form of the Mortgage Recording Tax Exemption Affidavit for the entire amount of the new mortgage, as well as any other applicable fees in accordance with the Agency's fee schedule, and shall remit directly to the Agency's counsel all reasonable attorneys' fees and costs associated with this transaction;

Section 3. Should the Agency's participation in the Financing Documents or the award of the Additional Financial Assistance 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 refinance, 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 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.

Section 5. This Resolution shall become effective immediately.

Section 6. The Secretary 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.

Section 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:

	AYE	NAY
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)

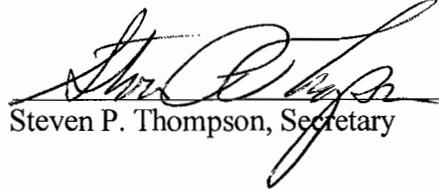
I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “**Agency**”) held on July 19, 2016, with the original thereof on 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 16 day of August, 2016.

City of Syracuse Industrial Development Agency



Steven P. Thompson, Secretary

(S E A L)