

APPROVING RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on March 9, 2016, at 8:30 o'clock a.m. in the Common Council Chamber, 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., Steven Thompson, Kenneth Kinsey

EXCUSED: Donald Schoenwald

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff Present: Ben Walsh, Judith DeLaney, John Vavonese, Thomas Babilon, Esq., Susan Katzoff, Esq.; Others Present: Aggie Lane, Barry Lentz, Christopher Geiger, David Nutting, Joseph Hucko, Christopher Lloyd, Nagib, Mark Roney, Melissa Zell, John Bartolella

The following Resolution was offered by M. Catherine Richardson and seconded by Steven Thompson:

**RESOLUTION APPROVING THE RETROACTIVE
EXTENSION OF THE SALES TAX APPOINTMENT OF
SALINA CROSSING COMMERCIAL ENTERPRISES, LLC
FROM MARCH 1, 2016 THROUGH AND INCLUDING
AUGUST 31, 2016**

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 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 resolutions adopted on November 13, 2012 (the “*Inducement Resolution*”), and October 21, 2014 (the “*Approving Resolution*” and together with the Inducement Resolution, the “*Resolutions*”), the Agency approved the appointment of Salina Crossing Commercial Enterprises, LLC (the “*Company*”) as the Agency’s agent for purposing of undertaking a project (the “*Project*”) at the request of the Company consisting of: (A)(i) the acquisition of a leasehold interest in approximately 4,700 square feet of a larger approximately 24,000 square foot building located at 900 and 906 North McBride Street and a leasehold interest in approximately 1,200 square feet of a larger approximately 6,000 square foot building located at 2223-37 South Salina Street (collectively, the “*Land*”); (ii) the construction of approximately 4,700 square feet of space to be used as commercial space at the North McBride location (the “*Butternut Commercial Space*”); and the construction of approximately 1,200 square feet of space to be used as commercial space at the South Salina Street location (the “*Salina Commercial Space*” and together with the Butternut Commercial Space, collectively the “*Facility*”) all located on the Land; (ii) the acquisition and installation in the Facility of furniture, fixtures and equipment (collectively 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 State and local 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, construction and equipping of the Project Facility; and (D) the lease of the Land and the 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; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, among other things, pursuant to the Resolutions, the Agency appointed the Company as an agent of the Agency for purposes of completing the Project and benefitting from the sales and use tax exemption and authorized the Company to appoint Additional Agents (as defined in the Resolutions); and

WHEREAS, in October, 2014 the Agency and the Company closed on the lease transaction in connection with the Project and the Agency issued a Sales Tax Appointment Letter (“*Letter*”) to the Company and filed a Form ST-60 – IDA Appointment of Project Operator or Agency for Sales Tax Purposes with the New York State Department of Taxation and Finance. The Letter and the Company’s appointment originally were set to expire on March 1, 2016; and

WHEREAS, by correspondence dated February 17, 2016, the Company advised that the construction of the Project Facility has been delayed due to, among other things, unforeseen site conditions as well as some needed soil stabilization in the public rights of way, and as such, has requested the Agency grant a retroactive extension of their sales tax appointment agent status from March 1, 2016 through and including August 31, 2016 to provide them an opportunity to complete the Project Facility (the “*Extension*”); and

WHEREAS, the Extension of the appointment of the Company as the agent of the Agency for the purpose of completing the Project and benefiting from State and local sales and use tax exemptions is 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 Extension is insubstantial and does not require reconsideration or further review by the Agency under SEQRA; 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 Extension does not amount to a significant change in the Project from what was originally approved by the Agency, and therefore further review under SEQRA and amendment of the Agency’s prior SEQRA negative declaration shall not be required.

(b) The Agency authorizes, subject to the terms and conditions hereof, the retroactive Extension from March 1, 2016 through and including August 31, 2016.

(2) As a condition to the granting of the Extension, the Company shall confirm and acknowledge that both the lease transactional documents, executed as of October 1, 2014 by and between the Company and the Agency (collectively the “**Transactional Documents**”), are in full force and effect and that there are no events of default thereunder.

(3) The terms and conditions of subdivision 3 of Section 875 of the Act are herein incorporated by reference and the Company shall agree to such terms as a condition precedent to receiving or benefiting from an exemption from New York State and local sales and use taxation. The State and local sales and use tax exemption benefits comprising the Financial Assistance previously approved for the Project was an aggregate amount not to exceed \$30,000.00.

(4) As a condition precedent to the granting of the Extension, the Company has, or shall provide evidence satisfactory to the Agency that the total amount of State and local sales and use tax exemption benefits received to date as part of the Financial Assistance previously approved for the Project has not exceeded \$30,000.00.

(5) The Agency is authorized to execute all documents necessary to effectuate the Extension of the sales tax appointment agent status of the Company and/or Additional Agents (as that term is defined in the Resolutions) including but not limited to issuance of a Sales Tax Appointment Extension Letter and completion of the appropriate “IDA Appointment of Project Operator or Agent for Sales Tax Purposes” (Form ST-60) for each of the entities; and the Chairman and Vice Chairman of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the documents upon the advice of counsel to the Agency. The execution thereof by the Chairman or Vice Chairman constitutes conclusive evidence of such approval.

(6) As a further condition of the Extension, the Company will submit to the Agency: (i) any administrative fee associated with this request; (ii) any legal fees incurred by the Agency in connection with this request; and (iii) the updated contract status report, or other applicable information, requested by the Agency with respect to the extension of the sales tax appointment.

(7) The Company shall provide or cause its Additional Agents to 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 the Company shall, and cause each Additional Agent, to make such records available to the Agency and 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 or Project’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 Additional Agents to make, all records and information regarding State and local sales and use tax exemption benefits realized by the Project available to the Agency or its designee upon request.

(8) 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.

(9) 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.

(10) A copy of this Resolution, together with any 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	
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 March 9, 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 *24th* day of March, 2016.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Steven P. Thompson, Secretary

(S E A L)