

A meeting of the County of Chautauqua Industrial Development Agency (the "Agency") was convened in public session at JCC North, 10807 Bennett Road, Dunkirk, Chautauqua County, New York on November 20, 2007 at 10:00 a.m., local time.

The meeting was called to order by the (Vice) Chairman and, upon roll being called, the following members of the Agency were:

PRESENT:

Michael Piazza	Chairman
Michael Metzger	Vice Chairman & Treasurer
Kim Peterson	Member
Dennis Rak	Member
Gregory DeCinque	Member
Ronald Szot	Member

ABSENT:

Richard Star	Secretary
David Bryant	Member
Doreen Sixbey	Member

THE FOLLOWING PERSONS WERE ALSO PRESENT:

William J. Daly	CCIDA Chief Executive Officer
Rich Dixon	CCIDA Chief Financial Officer
Jonathan Taber, Esq.	Counsel
Greg Peterson	Counsel
Carol Rasmussen	CCIDA Board Assistant Secretary
Lawrence Taylor	CCIDA Staff
Susan Casel	CCIDA Staff
Bob Iszard	ESD

The following resolution was offered by Dennis Rak, seconded by Michael Metzger, to wit:

**Resolution No. 11-20-07-03**

RESOLUTION AUTHORIZING THE ACQUISITION AND LEASING OF A CERTAIN PROJECT FOR E.S.M.R. LTD. (THE "COMPANY") AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION WITH THE COMPANY'S FINANCING OF SUCH PROJECT.

WHEREAS, County of Chautauqua Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 71 of the

1972 Laws of New York, as amended, constituting Section 895-h of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, renovating, improving, maintaining, equipping and furnishing of commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their 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, construct, reconstruct and install one or more "projects" (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, the Company has presented an application (the "Application") to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") consisting of the following: (A) (1) the acquisition of a parcel of land (the "Land") and an existing 2-story commercial building and related facilities situated thereon located at and around 7820 Rte. 474, in the Town of Clymer, Chautauqua County, New York, (2) the construction on the Land of a new approximately 15,000 sq. ft. warehouse facility, together with driveway, parking and other related facilities (collectively, the "Improvements"), and (3) the acquisition and installation therein and thereon of certain machinery and equipment (collectively, the "Equipment"), all of the foregoing to constitute the Company's main commercial and warehousing facility for its business (the Land, the Improvements and the Equipment are herein collectively referred to as the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from sales taxes, real property transfer taxes, mortgage recording taxes and real estate taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the Administrative Director of the Agency (A) caused notice of a public hearing of the Agency (the "Public Hearing"), to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on October 31, 2007 to the chief executive officers of the county and of each city, town, village and school district in which the Project is to be located, (B) caused notice of the Public Hearing to be published on November 5, 2007 in the Jamestown Post Journal, a newspaper of general circulation available to the residents of Clymer, New York, (C) conducted the Public Hearing on November 16, 2007 at 10:00 o'clock a.m., local time at the Clymer Community Building, West Main Street, Clymer, New York, and (D) prepared a report of the Public Hearing (the "Report") which fairly summarized the views presented at said public hearing and distributed same to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act"), and the regulations (the

“Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), by resolution adopted by the members of the Agency on October 30, 2007 (the “SEQR Resolution”), the Agency (1) determined that the Project constitutes an “unlisted action” under SEQRA, (2) made a determination to conduct an uncoordinated review of the Project, and (3) determined that the Project will result in no major impacts and, therefore, will not have a significant effect on the environment and has issued its negative declaration with respect to the Project; and

WHEREAS, by resolution adopted by the members of the Agency on October 30, 2007 (the “Inducement Resolution”), the Agency made a preliminary determination to proceed with the Project and to grant the Financial Assistance, subject to, among other things, the passing by the Agency of a final authorizing resolution; and

WHEREAS, in order to proceed with the Project, the Company will (A) cause to be executed and delivered a certain deed (the “Deed to Agency”) from the Company to the Agency, pursuant to which the Company will convey to the Agency its interest in the Land and the Improvements, (B) execute and deliver a certain bill of sale (the “Bill of Sale to Agency”) from the Company to the Agency, pursuant to which the Company will convey to the Agency its interest in the Equipment, (C) execute and deliver a certain lease agreement (the “Lease”) between the Agency, as landlord, and the Company, as tenant, pursuant to which the Agency will grant to the Company a leasehold interest in the Land, Improvements and Equipment, (D) execute and deliver a certain payment in lieu of taxes agreement (the “PILOT Agreement”) between the Agency and the Company, pursuant to which the Company will make certain payments in lieu of real estate taxes, and (E) execute and deliver certain other certificates, documents, instruments and agreements related to the Project (together with the Deed to Agency, Bill of Sale to Agency, Lease and PILOT Agreement, collectively, the “Transaction Documents”); and

WHEREAS, in connection with the Project, the Company may obtain certain loans (collectively, the “Loans”) in amounts satisfactory to the Company, such Loans to close on or about the date of execution of the Transaction Documents; and

WHEREAS, in order to facilitate the making of the Loans to the Company, the Agency is willing to execute and deliver one or more mortgages, security agreements, loan agreements and/or other certificates, documents or instruments respecting such Loans (collectively, the “Company Loan Documents”), all in form satisfactory to the Agency.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Agency is hereby Authorized to (A) acquire, construct and install the Project Facility, (B) grant the Financial Assistance with respect to the Project, and (C) lease (with an obligation to purchase) the Project Facility to the Company.

Section 2. The Agency is hereby authorized to acquire title to the Project Facility pursuant to the Deed to Agency, the Bill of Sale to Agency and the other Transaction

Documents, and to do all things necessary, convenient or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition are hereby approved, ratified and confirmed.

Section 3. The Agency is hereby authorized to grant a leasehold interest in the Project Facility to the Company pursuant to the Lease and the other Transaction Documents, and to do all things necessary, convenient or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such leasehold interest are hereby approved, ratified and confirmed.

Section 4. The Agency is hereby authorized to grant the Financial Assistance to the Company, to enter into the PILOT Agreement with the Company and to file Applications for Real Property Tax Exemption with the assessors of each "affected tax jurisdiction" (within the meaning of such quoted term in Section 854(16) of the Act) relating thereto, and to do all things necessary, convenient or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such Financial Assistance are hereby approved, ratified and confirmed.

Section 5. The Agency is hereby authorized to enter into the Company Loan Documents, and to do all things necessary, convenient or appropriate in order to facilitate the making of the Loan to the Company, and all acts heretofore taken by the Agency with respect thereto are hereby approved, ratified and confirmed.

Section 6. Each of the Transaction Documents and each of the Company Loan Documents shall be in such form and of such substance as the Chairman or Administrative Director of the Agency may approve, in their discretion, and the Chairman and the Administrative Director of the Agency are hereby authorized, on behalf of the Agency, acting together or individually, to execute and deliver each Transaction Document and each Company Loan Document to which the Agency is a party, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same.

Section 7. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Transaction Documents and/or the Company Loan Documents, to execute and deliver all such additional certificates, instruments, agreements and documents, to pay all such fees, charges and expenses, and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, convenient or appropriate to effect the purposes of this Resolution and to cause compliance with all of the terms, covenants and provisions of the Transaction Documents and/or the Company Loan Documents to which the Agency is a party or which are binding on the Agency.

Section 8. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Michael Piazza	VOTING <u>AYE</u>
Michael Metzger	VOTING <u>AYE</u>
Richard Star	VOTING <u>Absent</u>
David Bryant	VOTING <u>Absent</u>
Doreen Sixbey	VOTING <u>Absent</u>
Kim Peterson	VOTING <u>AYE</u>
Dennis Rak	VOTING <u>AYE</u>
Gregory DeCinque	VOTING <u>AYE</u>
Ronald Szot	VOTING <u>AYE</u>

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned (Assistant) Secretary of County of Chautauqua Industrial Development Agency (the "Agency"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on November 20, 2007 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

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 hereunto set my hand and affixed the seal of the Agency this 20th day of November, 2007.

  
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(Assistant) Secretary