

A regular meeting of Broome County Industrial Development Agency (the "Agency") was convened in public session at the Broome County Public Library Exhibit Room, 2<sup>nd</sup> Floor, 185 Court Street in the City of Binghamton, Broome County, New York on August 12, 2011 at 12:00 o'clock p.m., local time.

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

PRESENT:	George Akel, Jr.	Chairman
	Terrance M. Kane	Vice Chairman
	James W. Orband	Secretary
	Peter N. Hankin	Treasurer
	James G. Rounds	Asst. Secretary/Treasurer
	Stephen D. Herz	Member
	John J. Stevens	Member
ABSENT:	Patrick J. Brennan	Member
	Wayne L. Howard	Member

AGENCY STAFF PRESENT:

Richard D'Attilio, CED	Executive Director
Joseph B. Meagher, Esq.	Agency Counsel

The following resolution was offered by Mr. Kane, seconded by Mr. Hankin, to wit:

RESOLUTION TAKING ACTION TOWARD A LEASE AND LEASE-BACK TRANSACTION TO FACILITATE THE FINANCING OF THE RENOVATION, CONSTRUCTION AND EQUIPPING OF A CERTAIN COMMERCIAL PROJECT, APPOINTING HAWLEY STREET MEMBERS LLC (THE "COMPANY") AGENT OF THE AGENCY FOR THE PURPOSE OF RENOVATING, CONSTRUCTING, AND EQUIPPING THE FACILITY AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BY AND BETWEEN THE AGENCY AND THE COMPANY WITH RESPECT TO THE PROVIDING OF THE FACILITY.

WHEREAS, Broome County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of the State of New York, 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 564 of the 1970 Laws of State of New York, as amended, constituting Section 895-a 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, reconstructing, improving, maintaining, equipping and furnishing of manufacturing 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, Hawley Street Members LLC (the "Company") has presented an application (the "Application") to the Agency, a copy of which was presented at this meeting and copies of which are on file in 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 located at 20 Hawley Street in the City of Binghamton, Broome County, New York (the "Land"), (2) the renovation and construction on the Land of 167,000+/- square feet of space to be used as an apartment complex for college students (the "Facility") and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment being hereinafter collectively referred to as the "Project Facility"), all of the foregoing to be leased by the Company as an apartment complex for college students and any other directly or indirectly related activities; (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 certain sales taxes, mortgage recording taxes and real property taxes (collectively, the "Financial Assistance"); and (c) the lease (with an obligation to purchase) 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 Agency has given due consideration to the Application, and to representations by the Company that (A) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Company to undertake the Project in Broome County, New York and (B) the completion of the Project Facility will not result in the removal of a plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State of New York to another area of the State of New York or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State of New York; and

WHEREAS, the Agency desires to encourage the Company to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of Broome County, New York by undertaking the Project in Broome County, New York; and

WHEREAS, pursuant to the Act, any approval of the Project contained herein is contingent upon a determination by the members of the Agency to proceed with the Project following satisfaction of the public hearing and notice requirements and other procedural requirements contained in Section 859-a of the Act that relate to the Project; and

WHEREAS, although the resolution authorizing the Project has not yet been drafted for approval by the Agency, an Agency Agreement (the "Agency Agreement") relative to the proposed undertaking of the Project by the Agency has been presented for approval by the Agency.

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

Section 1. The Agency has reviewed the Application and, based upon the representations made by the Company to the Agency in the Application and at this meeting, the Agency hereby makes the following findings and determinations with respect to the Project:

A. The Project constitutes a "project" within the meaning of the Act; and

B. The completion of the Project Facility will not result in the removal of a plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State of New York to another area of the State of New York or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State of New York; and

C. The Project Facility will not constitute a project where facilities or property that are primarily used in making retail sales of goods or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project; and

D. The granting of the Financial Assistance by the Agency with respect to the Project, through the granting of the various tax exemptions described in Section 2(D) of this Resolution, will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of Broome County, New York and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act; and

E. Upon compliance with the provisions of the Act, the Agency would then be authorized under the Act to undertake the Project in order to promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of Broome County, New York and the State of New York and improve their standard of living.

Section 2. If, following full compliance with the requirements of the Act, including the public hearing requirements set forth in Section 859-a of the Act, the Agency adopts a future resolution (the "Future Resolution") determining to proceed with the Project and to grant the Financial Assistance with respect thereto and the Company complies with all conditions set forth in the Agency Agreement and the Future Resolution, then the Agency will (A) acquire an interest in the Project Facility from the Company pursuant to a lease agreement or other documentation to be negotiated between the Agency and the Company (the "Acquisition Agreement"); (B) renovate and construct the Facility on the Land and acquire and install the Equipment in the Facility or elsewhere on the Land; (C) lease (with the obligation to purchase) the Project Facility to the Company pursuant to a lease agreement (hereinafter, the "Project Agreement") between the Agency and the Company whereby the Company will be obligated, among other things, to pay all costs incurred by the Agency with respect to the Project and/or the Project Facility, including all costs of operation and maintenance, all taxes and other governmental charges, any required payments-in-lieu-of-taxes, and the reasonable fees and expenses incurred by the Agency with respect to or in connection with the Project and/or the Project Facility; and (D) provide the Financial Assistance with respect to the Project, in accordance with the Agency's uniform tax exemption policy, including (1) exemption from mortgage recording fees with respect to any documents recorded by the Agency with respect to the Project in the office of the County Clerk of Broome County, New York or elsewhere, (2) exemption from sales taxes relating to the renovation, construction and equipping of the Project Facility, and (3) exemption from real estate taxes (but not including special assessments and special ad valorem levies) relating to the Project Facility, subject to the obligation of the Company to make payments-in-lieu-of-taxes with respect to the Project Facility, all as contemplated by the Agency Agreement and the Future Resolution.

Section 3. If the Agency adopts the Future Resolution, the undertaking and completing of the Project by the Agency, and the granting of the Financial Assistance with respect to the Project as contemplated by Section 2 of this Resolution, shall be subject to: (A) execution and delivery by the Company of the Agency Agreement, which sets forth certain conditions for the

undertaking and completing of the Project by the Agency, and satisfaction by the Company of all the terms and conditions of the Agency Agreement applicable to the Company; (B) agreement by the Agency and the Company on mutually acceptable terms for the conveyance of the Land to the Agency; (C) agreement between the Company and the Agency as to payment by the Company of payments-in-lieu-of-taxes with respect to the Project Facility, together with the administrative fee of the Agency with respect to the Project; (D) a determination by the members of the Agency to proceed with the granting of the Financial Assistance with respect to the Project following a determination by the members of the Agency that the public hearing and notice requirements and other procedural requirements contained in Section 859-a of the Act have been complied with; (E) if any portion of the Financial Assistance to be granted by the Agency with respect to the Project is not consistent with the Agency's uniform tax exemption policy, the Agency must follow the procedures for deviation from such policy set forth in Section 874(b) of the Act prior to granting such portion of the Financial Assistance; and (F) the following additional condition(s): None.

Section 4. The form, terms and substance of the Agency Agreement (in substantially the form presented to this meeting with revisions agreed to and to be agreed to by the Agency in its discretion and attached hereto) are in all respects approved, and the Chairman, Vice Chairman or Executive Director of the Agency are hereby authorized, empowered and directed to execute and deliver said Agency Agreement in the name and on behalf of the Agency, said Agency Agreement to be substantially in the form presented to this meeting, with such changes therein as shall be approved by the officer executing same on behalf of the Agency, the execution thereof by such officer to constitute conclusive evidence of such officer's approval of any and all changes or revisions therein from the form now before this meeting.

Section 5. From and after the execution and delivery of the Agency Agreement, the officers, agents and employees of the Agency are hereby authorized, empowered and directed to proceed with the undertakings provided for therein on the part of the Agency and are further authorized to do all such acts and things and to execute all such documents as may be necessary or convenient to carry out and comply with the terms and provisions of the Agency Agreement as executed.

Section 6. The Agency hereby authorizes the Executive Director of the Agency, prior to the granting of any Financial Assistance with respect to the Project, after consultation with counsel to the Agency, (A) to establish a time, date and place for a public hearing of the Agency to hear all persons interested in the location and nature of the Project Facility and the proposed Financial Assistance being contemplated by the Agency with respect to the Project, said public hearing to be held in the city, town or village where the Project Facility will be located; (B) to cause notice of such public hearing to be given to the public by publishing a notice of such hearing in a newspaper of general circulation available to residents of the governmental units where the Project Facility is to be located, such notice to comply with the requirements of Section 859-a of the Act and to be published no fewer than thirty (30) days prior to the date established for such public hearing; (C) to cause notice of said public hearing to be given to the chief executive officer of the county and each city, town, village and school district in which the Project Facility is or is to be located no fewer than thirty (30) days prior to the date established for said public hearing; (D) to conduct such public hearing; and (E) to cause a report of said public hearing fairly summarizing the views presented at such public hearing to be promptly prepared and cause copies of said report to be made available to the members of the Agency.

Section 7. The Chairman, Vice Chairman and Executive Director of the Agency are hereby authorized and directed 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.

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:

George Akel, Jr.	voting	Yes
Terrance M. Kane	voting	Yes
James W. Orband	voting	Abstained
Peter N. Hankin	voting	Yes
James G. Rounds	voting	Yes
Stephen D. Herz	voting	Yes
John J. Stevens	voting	Yes
Wayne L. Howard	voting	Absent
Patrick J. Brennan	voting	Absent

The foregoing Resolution was thereon declared duly adopted.

