

A regular meeting of the County of Saratoga Industrial Development Agency was convened at the Malta Town Hall, 2540 NYS Route 9, Malta, New York and via public telephonic session on December 21, 2021 at 8:30 o'clock a.m., local time following the close of a public hearing.

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

PRESENT:

Rodney Sutton	Chairman
Michael Mooney	Treasurer
Tom Lewis	Secretary
Walter Wintsch, Jr.	Member
Kevin J. Tollisen	Member
Philip Klein	Member

ABSENT:

Andrea J. Di Domenico	Vice Chairperson
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ALSO PRESENT:

Scott Duffy	Agency CEO
Michael Valentine	Agency Administrator
James A. Carminucci, Esq.	Lemery Greisler LLC, Agency Counsel
Jeff Many	Agency CFO

The following resolution was offered by Mr. Klein, seconded by Mr. Lewis, to wit:

RESOLUTION # 1503

RESOLUTION MAKING A DETERMINATION UNDER THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT WITH RESPECT TO A PROJECT CONSISTING OF THE CONSTRUCTION AND EQUIPPING OF A 120,000 SQUARE FOOT MANUFACTURING, WAREHOUSING AND SHIPPING FACILITY TO BE LOCATED AT 10 STONEBREAK ROAD IN THE TOWN OF MALTA, COUNTY OF SARATOGA, STATE OF NEW YORK, UPON APPLICATION OF TIVOLI PROPERTIES LLC AND M & L PROPERTIES LLC, APPOINTING TIVOLI PROPERTIES LLC, M & L PROPERTIES LLC AND ARNOFF MOVING & STORAGE OF ALBANY, INC. AGENTS OF THE AGENCY WITH RESPECT TO THE UNDERTAKING OF THE PROJECT AND AUTHORIZING EXECUTION OF DOCUMENTS RELATED THERETO.

WHEREAS, the County of Saratoga 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 the State of New York, as amended (the "Enabling Act"), and Chapter 855 of the 1971 Laws of the State of New York, as amended, constituting Section 890-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, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation 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 and install “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 Tivoli Properties LLC, a New York limited liability company having an address of 1282 Dutchess Turnpike, Poughkeepsie, New York 12603 and M & L Properties LLC, a New York limited liability company having an address of 1282 Dutchess Turnpike, Poughkeepsie, New York 12603 (collectively, the “Applicant”), have requested that the Agency undertake a project (the “Project”) consisting of (A) (1) the construction on an approximately 39 acre parcel of land constituting tax map parcel 240.-2-60.1 located at 10 Stonebreak Road in the Town of Malta, New York owned by the Applicant and currently leased to the Agency (the “Land”) of an approximately 120,000 square foot building (the “Facility”), to be leased by the Applicant to Arnoff Moving & Storage of Albany, Inc., a New York business corporation having an address of 10 Stonebreak Road, Malta, New York 12020 (the Tenant”) for use by the Tenant and potentially other third party tenants (the “Third Party Tenants”) in manufacturing, warehousing and shipping operations and (2) the acquisition and installation in the Facility of certain machinery and equipment (the “Equipment” and together with the Land and the Facility, collectively the “Project Facility”), (B) the lease (with the obligation to purchase) or the sale of the Project Facility to the Applicant or such other person as may be designated by the Applicant and agreed upon by the Agency ; and (C) the granting of “Financial Assistance” (as such term is defined in the Act) with respect thereto in the form of exemptions from state and local sales tax, mortgage recording taxes and real property taxes; and

WHEREAS, the Applicant has estimated that the total cost of the Project will equal approximately \$12,100,000; and

WHEREAS, the Agency has given due consideration to the Application, and to representations by the Applicant that the undertaking of the Project will be an inducement to the Applicant to undertake the Project in Saratoga County, New York; and

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

WHEREAS, a public hearing with respect to the Project was conducted by the Agency immediately prior to the consideration of this Resolution following publication of a notice of said public hearing and notice to all affected taxing jurisdictions as required by the provisions of the Act; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of the State of New York, as amended, and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the “SEQR Act”), the Agency is required to make a determination with respect to the environmental impact of any “Action” (as defined by the SEQR Act) to be taken by the Agency and the approval of the Project constitutes such an “Action”; and

WHEREAS, the Agency has been advised that financing for the Project will be provided by a certain mortgage loans (collectively, the “Loan”) in the amount of \$10,890,000 from KeyBank National Association and NYBDC Local Development Corporation/Empire State Certified Development Corporation (the “Lender”); and

WHEREAS, the Loan is to be secured by certain mortgages from the Agency and the Applicant in favor of the Lender (with assignment to U.S. Small Business Administration (collectively, the “Mortgage”); and

WHEREAS, in order to consummate the aforesaid Project, the Agency has been requested to enter into (a) an underlying lease by and between the Applicant and the Agency (the “Underlying Lease”), (b) a lease agreement (the “Lease Agreement”) by and between the Agency and the Applicant (the “Lease Agreement”), (c) a payment in lieu of tax agreement (the “PILOT Agreement”) by and between the Agency and the Applicant and (d) a project agreement by and between the Agency and the Applicant (the “Project Agreement”);

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

SECTION 1. Based upon the representations made by the Applicant to the Agency, 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 undertaking by the Agency of the construction and installation of the Project Facility pursuant to the Act, will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of Saratoga County, New York and the State of New York, improve their standard of living and thereby serve the public purposes of the Act; and
- C. The completion of the Project will not result in the removal of a facility or plant of the Applicant or any other proposed occupant of the Project Facility from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Applicant or any other proposed occupant of the Project Facility located in the State.

SECTION 2. Based upon a review of the Environmental Assessment Form relating to the Project and submitted by the Applicant together with the meeting minutes and record of the Town of Malta Planning Board (the “Lead Agency”) held on November 23, 2021 relating to the Project, the Agency hereby confirms the determination of the Lead Agency that the Project constitutes an “Unlisted Action” (as such term is defined by the SEQRA Act) which would not have a significant effect upon the environment (hereinafter the “Initial Determination”). The Chairman shall take all action required by the SEQRA Act to cause such Initial Determination to become final in accordance with the terms and provisions of the SEQRA Act, including the filing of this Resolution in the office of the Agency to be made available for public inspection during business hours.

SECTION 3. The Applicant and the Tenant are each hereby appointed the true and lawful agent of the Agency (A) (1) to construct the Facility, and (2) acquire and install the Equipment, (B) to appoint sub-agents for such purposes and (C) to make, execute, acknowledge, and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for completing the Project and all with the same powers and the same validity as the Agency could do if acting on its own behalf. In addition, the Applicant and the Company are each hereby authorized to advance such funds as may be necessary to accomplish such purposes.

SECTION 4. Each officer of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Mortgage, the Underlying Lease, the Lease Agreement, the PILOT Agreement and the Project Agreement (hereinafter collectively called the "Leasing Documents"), 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, all in substantially the forms previously executed and delivered by the Agency for similar-type transactions with such changes, variations, omissions and insertions as the officer so executing and counsel to the Agency shall approve, the execution thereof by such officer to constitute conclusive evidence of such approval.

SECTION 5. The Agency is hereby authorized to acquire all of the real and personal property described in the Lease Agreement.

SECTION 6. 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 Leasing Documents, and to execute and deliver all such additional certificates, instruments 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, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Leasing Documents binding upon the Agency.

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

Rodney Sutton	VOTING AYE
Michael Mooney	VOTING AYE
Tom Lewis	VOTING AYE
Philip Klein	VOTING AYE
Kevin J. Tollisen	VOTING AYE
Walter Wintsch, Jr.	VOTING AYE

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned Secretary of the County of Saratoga 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 held on December 21, 2021, including the resolution contained therein, with the original thereof on file in my office, and that the same is a true and correct copy of said original 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 respect 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 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 this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Tom Lewis, Secretary