

Res. #1355  
SKS

A regular meeting of the County of Saratoga Industrial Development Agency was convened in public session at the Saratoga Springs City Hall, 474 Broadway in the City of Saratoga Springs, New York on January 9, 2017 at 8:00 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        | Assistant Treasurer and Assistant Secretary |
| Arthur Johnson        | Member                                      |
| Philip W. Klein       | Secretary                                   |
| Andrea J. Di Domenico | Member                                      |
| Tom Lewis             | Member                                      |
| Patrick Greene        | Member                                      |

ABSENT:

ALSO PRESENT:

|                           |                                      |
|---------------------------|--------------------------------------|
| Richard Ferguson          | Agency CEO                           |
| Michael Valentine         | Senior Planner to the IDA            |
| Michael J. Toohey, Esq.   | Agency Counsel                       |
| James A. Carminucci, Esq. | Lemery Greisler LLC, Special Counsel |

The following resolution was offered by Mr. Klein, seconded by Ms. Di Domenico, to wit:

RESOLUTION #1355

RESOLUTION GRANTING PRELIMINARY APPROVAL TOWARD THE PROVIDING OF FINANCIAL ASSISTANCE BY THE COUNTY OF SARATOGA INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT TO A PROJECT CONSISTING OF THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A 128,000 SQUARE FOOT FACILITY TO BE LOCATED ON GEYSER ROAD IN THE CITY OF SARATOGA SPRINGS, COUNTY OF SARATOGA, STATE OF NEW YORK, UPON APPLICATION OF TWINBROOK REALTY, LLC TO BE UTILIZED BY SKS BOTTLE & PACKAGING, INC. IN ITS DISTRIBUTION OPERATIONS AND FOR ITS CORPORATE HEADQUARTERS.

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 Twinbrook Realty LLC, a New York limited liability company having an address of 2600 Seventh Avenue, Building 60, Watervliet, New York 12189 (the "Applicant"), has requested that the Agency undertake a project (the "Project") consisting of (A) (1) the acquisition of an interest in an approximately 22.3 acre parcel of land constituting a portion of tax map parcel 178-1-43.11 and located on Geyser Road in the City of Saratoga Springs, New York (the "Land"), (2) the construction on the Land of an approximately 128,000 square foot facility to be occupied by SKS Bottle & Packaging, Inc., a New York business corporation having an address of 2600 Seventh Avenue, Building 60, Watervliet, New York 12189 (the "Tenant") and utilized as a distribution and warehouse facility as well as for corporate headquarters (the "Facility") and (3) the acquisition and installation therein 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 sales tax, mortgage recording tax and real property taxes; and

WHEREAS, the Applicant has estimated that the total cost of the Project will equal approximately \$15,960,357; 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

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 acquisition, 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 except to the extent the foregoing is reasonably necessary to discourage the Applicant or said occupant from removing such other plant or facility outside the State of New York or is reasonably necessary to preserve the competitive position of the Applicant or said occupant in its respective industry.

SECTION 2. Subject to the conditions set forth in Section 3 of this Resolution, the Agency will (A) acquire, construct and install the Project Facility, or cause the Project Facility to be acquired, constructed and installed, (B) lease (with the obligation to purchase) or sell the Project Facility to the Applicant or its designee pursuant to a lease agreement or an installment sale agreement (hereinafter, the "Agreement") between the Agency and the Applicant and (C) if requested by the Applicant, authorize by future resolution the execution and delivery of a mortgage on its interest in the Project Facility to secure a borrowing by the Applicant to finance all or a portion of the costs of the Project.

SECTION 3. The undertaking of the Project, as contemplated by Section 2 of this Resolution, shall be subject to: (A) the determination by the Agency that all requirements of the SEQR Act that relate to the Project have been fulfilled; (B) agreement between the Applicant and the Agency as to payment by the Applicant 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; and (C) the following additional conditions: (1) that the Applicant procure all necessary federal, state and local approvals and permits with respect to the construction and operation of the Project Facility, (2) satisfactory review of the Tenant's financial statements on behalf of the Agency and (3) satisfaction by the Agency with the requirements of the Act.

SECTION 4. 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.

SECTION 5. The Chairman of the Agency is hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

SECTION 6. Lemery Greisler LLC is hereby appointed Special Counsel with respect to all matters in connection with the Project. Special Counsel for the Agency is hereby authorized, at the expense of the Applicant, to work with the Applicant and others to prepare, for submission to the Agency, all documents necessary to effect the undertaking of the Project. The Applicant shall additionally be responsible for all fees and expenses incurred by Counsel to the Agency in connection with the Project.

SECTION 7. This Resolution shall take effect immediately and shall remain in effect until the earlier of (1) the execution and delivery of the Lease Agreement at which time all provisions and conditions hereof shall be deemed merged into such Agreement and (2) the date which is two (2) years from the date hereof.

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 |
| Arthur Johnson        | VOTING AYE |
| Philip W. Klein       | VOTING AYE |
| Andrea J. Di Domenico | VOTING AYE |
| Tom Lewis             | VOTING AYE |
| Patrick Greene        | 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 January 9, 2017, 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 \_\_\_\_, 2016.

\_\_\_\_\_  
Philip W. Klein, Secretary