

**RESOLUTION AUTHORIZING REFINANCING  
SPC ALBANY WINDHAM LLC AND TA ALBANY WINDHAM LLC PROJECT**

A regular meeting of Rensselaer County Industrial Development Agency (the "Agency") was convened in public session in the Economic Development and Planning Office located on the fifth (5th) floor of the Rensselaer County Office Building located on 1600 Seventh Avenue in the City of Troy, Rensselaer County, New York on July 14, 2016 at 4:00 o'clock p.m., local time.

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

PRESENT:

|                      |                               |
|----------------------|-------------------------------|
| John H. Clinton, Jr. | Chairman                      |
| Sandra Brown         | Vice Chairman                 |
| Cynthia A. Henninger | Secretary/Treasurer           |
| Ronald Bounds        | Assistant Secretary/Treasurer |
| Douglas Baldrey      | Member                        |
| James Church         | Member                        |
| Michael Della Rocco  | Member                        |

ABSENT:

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

|                         |                 |
|-------------------------|-----------------|
| Robin LaBrake           | Assistant       |
| Peter R. Kehoe, Esq.    | Agency Counsel  |
| Nadene E. Zeigler, Esq. | Special Counsel |

The following resolution was offered by Cynthia Henninger, seconded by Ronald Bounds , to wit:

Resolution No. 0716-07

**RESOLUTION AUTHORIZING THE EXECUTION BY RENSSELAER COUNTY  
INDUSTRIAL DEVELOPMENT AGENCY OF A CERTAIN MORTGAGE AND  
RELATED DOCUMENTS IN CONNECTION WITH THE SPC ALBANY WINDHAM  
LLC AND TA ALBANY WINDHAM LLC PROJECT.**

WHEREAS, Rensselaer County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of 1969 Laws 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 128 of the 1974 Laws of New York, as amended, constituting Section 903-d 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, and 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, on or about April 4, 2012, the Agency and Columbia 17<sup>th</sup> Street LLC (“Columbia”) assigned a portion of a certain lease dated as of December 1, 2010 (the “Underlying Lease”) between the Agency and the Company covering 256 Hoosick Street in the City of Troy, Rensselaer County, New York (the “Outparcel Land”) to SPC Albany Windham LLC and TA Albany Windham LLC (collectively, the “Company”) pursuant to an assignment and assumption agreement dated as of March 1, 2012 (the “Assignment and Assumption Agreement”) by and among the Agency, the Company, Columbia and NBT Bank, National Association (the “Holder”); and

WHEREAS, on or about April 4, 2012, the Agency granted certain “financial assistance” within the meaning of the Act (the “Financial Assistance”) in connection with a project (the “Project”) being undertaken by the Agency for the benefit of the Company consisting of the following: (A) the acquisition of an interest in an approximately 0.58 acre parcel of land located at 256 Hoosick Street (tax map no. 101.32-7-3.2) in the City of Troy, Rensselaer County, New York (the “Land”), together with an existing approximately 2,500 square foot building and associated parking located thereon (collectively, the “Facility”) and certain machinery and equipment (collectively, the “Equipment”), all of the foregoing to constitute a banking facility (the Land, the Facility and the Equipment being 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 certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease of the Project Facility to the Company pursuant to the terms of a lease agreement dated as of March 1, 2012 (the “Lease Agreement”) by and between the Company and the Agency; and

WHEREAS, in order to finance a portion of the costs of the Project, the Company obtained a loan in the principal sum of up to \$1,438,557 (the “Loan”) from Pascack Community Bank (the “Lender”), which Loan was secured by (1) a mortgage and security agreement dated as of March 1, 2012 (the “Mortgage”) from the Agency and the Company to the Lender and (2) an assignment of rents and leases dated as of March 1, 2012 (the “Assignment of Rents”) from the Agency and the Company to the Lender; and

WHEREAS, by correspondence dated July 13, 2016 (the “Request”), which Request is attached hereto as Exhibit A, the Agency was informed that the Company intends to refinance the Loan with a loan in the maximum amount of \$2,480,000 (the “Refinanced Loan”) from Wells Fargo Bank, National Association (the “New Lender”), which Refinanced Loan will be secured by, among other items, a mortgage with absolute assignment of leases and rents, security agreement and fixture filing (the “Refinanced Mortgage”) from the Agency and the Company to the New Lender, an absolute assignment of leases, rents, income and profits (the “Refinanced Assignment of Rents”) from the Company and the Agency to the New Lender, an estoppel, subordination and non-disturbance agreement (the “Estoppel”) from the Agency to the New Lender and certain other additional loan documents (collectively, with the Refinanced Mortgage, the “Refinanced Loan Documents”); 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 adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Agency

must satisfy the requirements contained in SEQRA prior to making a final determination whether to proceed with the Request; and

WHEREAS, pursuant to SEQRA, the Agency has examined the Request in order to make a determination as to whether the Request is subject to SEQRA, and it appears that the Request constitutes a Type II action under SEQRA;

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

Section 1. Based upon an examination of the Request, the Agency hereby makes the following determinations:

(A) The Request constitutes a "Type II action" pursuant to 6 NYCRR 617.5(c)(23), and therefore that, pursuant to 6 NYCRR 617.6(a)(1)(i), the Agency has no further responsibilities under SEQRA with respect to the Request.

(B) That since compliance by the Agency with the Request will not result in the Agency providing more than \$100,000 of "financial assistance" (as such quoted term is defined in the Act) to the Company, Section 859-a of the Act does not require a public hearing to be held with respect to the Request.

Section 2. Subject to (A) approval of the form of the Refinanced Loan Documents, by Special Agency counsel and (B) receipt by the Executive Director of (1) the Agency's administrative fee relating to the Request, if any, and (2) counsel's fees relating to the Request, the Agency hereby authorizes (a) the execution by the Agency of the Refinanced Loan Documents and (b) the execution and delivery by the Agency of an affidavit of exemption from mortgage recording taxes with respect to the Refinanced Loan Documents.

Section 3. Subject to the satisfaction of the conditions described in Section 2 hereof, the Chairman (or Vice Chairman) of the Agency is hereby authorized to execute and deliver the Refinanced Loan Documents to the Company, 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 form thereof presented to this meeting, with such changes, variations, omissions and insertions as the Chairman (or Vice Chairman) shall approve, the execution thereof by the Chairman (or Vice Chairman) to constitute conclusive evidence of such approval.

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 Refinanced Loan 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 Refinanced Loan Documents binding upon the Agency.

Section 5. 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:

|                      |        |     |
|----------------------|--------|-----|
| John H. Clinton, Jr. | VOTING | YES |
| Sandra Brown         | VOTING | YES |
| Cynthia A. Henninger | VOTING | YES |
| Ronald Bounds        | VOTING | YES |
| Douglas Baldrey      | VOTING | YES |
| James Church         | VOTING | YES |
| Michael Della Rocco  | VOTING | YES |

The foregoing Resolution was thereupon declared duly adopted.


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

I, the undersigned (Assistant) Secretary of Rensselaer County 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 July 14, 2016 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 such proceedings of the Agency and of such Resolution set forth therein 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 14<sup>th</sup> day of July, 2016.

  
\_\_\_\_\_  
(Assistant) Secretary

(SEAL)

EXHIBIT A  
REQUEST

**TA ALBANY WINDHAM LLC**  
**SPC ALBANY WINDHAM LLC**  
235 Moore Street, Suite 300  
Hackensack, New Jersey 07601

July 13, 2016

Rensselaer County Industrial Development Agency  
c/o Economic Development and Planning Office  
Rensselaer County Office Building  
1600 Seventh Avenue, 5<sup>th</sup> Floor  
Troy, New York 12180

*Re: 256 Hoosick Street, Troy, New York 12180*

Ladies and Gentlemen:

TA Albany Windham LLC and SPC Albany Windham LLC (collectively, the "**Company**") are the owners of the above-referenced property. Pursuant to an Assignment and Assumption Agreement made by and between the Rensselaer County Industrial Development Agency (the "**Agency**"), the Company and Columbia 17<sup>th</sup> Street LLC ("**Columbia**") dated March 1, 2012 and recorded on April 23, 2012 in Liber 6273 Page 38 with the Rensselaer County Recording Office (the "**Recorder**"), the Company was assigned a portion of that certain lease agreement originally made by and between the Agency and Columbia as part of an original redevelopment plan, a memorandum of which was recorded with the Recorder on January 7, 2011 in Liber 5763 Page 55.

The property is a portion of a redevelopment site split under a project deviation under which the Company and the Agency entered into that certain Lease Agreement dated as of March 1, 2012, with the Agency, as lessor, and the Company, as lessee, a memorandum of which was recorded with the Recorder on April 23, 2012 in Liber 6273 Page 57, as well as a Payment In Lieu of Tax Agreement (the "**PILOT**") and the other Basic Documents (as defined in the PILOT).

The property is currently encumbered by a mortgage. Pursuant to Section 12.11 of the Lease, the Agency subordinated the lease to the existing mortgage. The Company is in the process of refinancing the existing mortgage with Wells Fargo Bank, National Association ("**Wells Fargo**"). The current outstanding principal indebtedness secured by the existing mortgage is \$1,438,557.00, as evidenced by the enclosed payoff letter. The new mortgage will be in the sum of \$2,480,000.00.

This correspondence shall serve as the Company's request that the Agency:

1. Join in the enclosed Mortgage With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing in favor of Wells Fargo (the "**Mortgage**");

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2. Join in the enclosed Absolute Assignment of Leases, Rents, Income and Profits to in favor of Wells Fargo (the "*Assignment of Leases and Rents*");
3. Execute the enclosed Estoppel, Subordination and Non-Disturbance Agreement;  
and
4. Afford the Company mortgage tax exemption by providing the Agency's form of exemption affidavit for each of the Mortgage and the Assignment of Leases and Rents.

If you have any questions or require any additional information, please do not hesitate to contact our counsel, Christopher M. Rider of Fox Rothschild LLP, at (973) 326-7104 or via electronic mail at [crider@foxrothschild.com](mailto:crider@foxrothschild.com).

Very truly yours,



Hal B. Messer

Encl.

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