

**RESOLUTION AUTHORIZING REFINANCING
SCHODACK REALTY, LLC PROJECT**

A regular meeting of Rensselaer County Industrial Development Agency (the "Agency") was convened in public session in the 3rd Floor Conference Room at the Quackenbush Building located at 333 Broadway in the City of Troy, Rensselaer County, New York on January 11, 2018 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
Cynthia A. Henninger	Secretary/Treasurer
Ronald Bounds	Assistant Secretary/Treasurer
Douglas Baldrey	Member
James Church	Member
Michael Della Rocco	Member
Renee Powell	Member

ABSENT:

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Robert L. Pasinella, Jr.	Executive Director
Robin LaBrake	Assistant
Peter R. Kehoe, Esq.	Agency Counsel
George W. Cregg, Jr., Esq.	Special Counsel

The following resolution was offered by D. BALDREY, seconded by M. DELLA ROCCO, to wit:

Resolution No. 0118-9

RESOLUTION AUTHORIZING THE EXECUTION BY RENSSELAER COUNTY INDUSTRIAL DEVELOPMENT AGENCY OF A CERTAIN MORTGAGE OR SUBORDINATION AND RELATED DOCUMENTS IN CONNECTION WITH THE SCHODACK REALTY, 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 June 14, 2013 (the “Closing”), the Agency granted certain financial assistance to Schodack Realty, LLC (the “Company”) to assist in financing a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in various parcels of land, together with an existing 10,000 square foot bakery facility, containing in the aggregate approximately 3.5 acres beginning at 1792 Columbia Turnpike on the easterly side of U.S. Routes 9 and 20 and proceeding northerly to I-90 interchange thence proceeding northerly along the easterly side of the I-90 interchange and I-90 to Kraft Road in the Town of Schodack, Rensselaer County, New York (being tax map nos. 189.-10-8.21 and 189.-10-8.22), (2) the construction on the Land of an approximately 1.5 mile sanitary sewer line and sewage pump station (collectively, the “Facility”) and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”), all of the foregoing to constitute a sanitary sewer line to service an existing 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 sales and use taxes, real property transfer taxes, mortgage recording taxes and real estate 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 June 1, 2013 (the “Lease Agreement”) by and between the Company and the Agency; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement, the Company executed and delivered to the Agency (A) a certain lease to agency dated as of June 1, 2013 (the “Lease to Agency”) by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company leased to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the “Premises”) for a lease term ending on December 31, 2024; (B) a certain license agreement dated as of June 1, 2013 (the “License to Agency” or the “License Agreement”) by and between the Company, as licensor, and the Agency, as licensee, pursuant to which the Company granted to the Agency (1) a license to enter upon the balance of the Land (the “Licensed Premises”) for the purpose of undertaking and completing the Project and (2) in the event of an occurrence of an Event of Default by the Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement (as hereinafter defined); (C) a payment in lieu of tax agreement dated as of June 1, 2013 (the “Payment in Lieu of Tax Agreement”) by and between the Agency and the Company, pursuant to which the Company agreed to pay certain payments in lieu of taxes with respect to the Project Facility; and (D) a bill of sale dated as of June 1, 2013 (the “Bill of Sale to Agency”), which conveyed to the Agency all right, title and interest of the Company in the Equipment; 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 \$1,200,000 (the “Loan”) from Hoosac Bank (the “Lender”), which Loan was secured by a mortgage, security agreement and assignment of rents and leases dated as of June 1, 2013 (the “Mortgage”) from the Agency and the Company to the Lender; and

WHEREAS, by correspondence dated January 10, 2018 (the "Request"), which Request is attached hereto as Exhibit A, the Agency was informed that the Company intends to refinance the Loan and several other loans on other properties pursuant to loans in the approximate aggregate amount of \$12,000,000 (collectively, the "Refinanced Loan") from SEFCU ("SEFCU"), which Refinanced Loan will be secured by a mortgage or mortgages (collectively, the "Refinanced Mortgage") and certain other additional loan documents (collectively, with the Refinanced Mortgage, the "Refinanced Loan Documents"); and

WHEREAS, pursuant to the Request, the Company would like the Agency to either enter into the Refinanced Loan Documents or subordinate the Lease Agreement to the lien of the Refinanced Loan pursuant to a subordination agreement and certain other additional subordination documents (collectively, the "Subordination 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 the value of the mortgage recording tax exemption relating to the Request will not exceed \$100,000.

(C) 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 or the Subordination 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 or the Subordination 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 or the Subordination 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 or the Subordination 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 or the Subordination 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	<u>YB</u>
Cynthia A. Henninger	VOTING	<u>YB</u>
Ronald Bounds	VOTING	<u>YB</u>
Douglas Baldrey	VOTING	<u>YB</u>
James Church	VOTING	<u>YB</u>
Michael Della Rocco	VOTING	<u>YB</u>
Renee Powell	VOTING	<u>YB</u>

The foregoing Resolution was thereupon declared duly adopted.

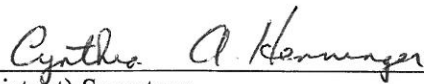
STATE OF NEW YORK)
) SS.:
COUNTY OF RENSSELAER)

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 January 11, 2018 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 11th day of January, 2018.



(~~Assistant~~) Secretary

(SEAL)

EXHIBIT A

REQUEST

- SEE ATTACHED -



FREEMAN & HOWARD^{PC}
ATTORNEYS AT LAW

PAUL M. FREEMAN
ANDREW B. HOWARD
MATTHEW J. GRIESEMER
BRIAN P. HENCHY
MATTHEW J. GALLAGHER*
*ALSO ADMITTED IN MA

P.O. BOX 1328
441 EAST ALLEN STREET
HUDSON, NEW YORK 12534
518-828-2021 PHONE
518-828-2420 FAX

January 10, 2018

Via Electronic Mail

A. Joseph Scott, III, Esq.
Hodgson Russ
677 Broadway
Albany, New York 12207

Re: Schodack Realty, LLC and Rensselaer County IDA
Subordination Request

Dear Joe:

Pursuant to our recent telephone conversation and your firm's representation of the Rensselaer County IDA ("IDA"), I am writing in connection with a re-finance being undertaken by my client, Schodack Realty, LLC with SEFCU.

By way of background, in June 2013, Schodack Realty completed a transaction with the IDA in connection with the construction of a sewer line in the Town of Schodack, which included a PILOT Agreement. The underlying mortgage financing was provided by MountainOne Bank, and Memorandum of Underlying Lease, Memorandum of Lease Agreement, and License Agreement, among other things, were filed and made subordinate to the bank financing. By way of further reference, attached please find the references to this transaction from my client's title report.

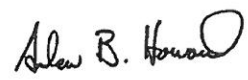
The project was completed and my clients are now in the process of re-financing their loans with MountainOne, include the subject mortgage loan, with SEFCU, and have scheduled a closing for January 29, 2018. In connection with the foregoing, SEFCU has requested that the IDA execute an agreement subordinating its filings to SEFCU's mortgage. SEFCU has advised that they can provide the subordination agreement for the IDA's review should you wish to see it in advance.

Pursuant the foregoing, we are respectfully requesting that the IDA accept this correspondence as Schodack Realty, LLC's formal request for a subordination and ask that it be taken up by the IDA at its January 2018 meeting. Should you require additional information, please do not hesitate to contact me.

FAX AND ELECTRONIC MAIL SERVICE NOT ACCEPTED

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Sincerely yours,

A handwritten signature in black ink that reads "Andrew B. Howard". The signature is written in a cursive style with a large, looped "O" at the end.

Andrew B. Howard

cc: Michael Kinum, Esq.
MKinum@goldmanpllc.com
encl.

Issued By

CHICAGO TITLE INSURANCE COMPANY

Schedule B, Section 1

COMMITMENT FOR TITLE INSURANCE

No: 1703-72117

REQUIREMENTS

Matters to be disposed of at or prior to closing:

1. Instrument(s) creating the estate or interest to be insured must be approved, executed and filed for record to wit:
 - a. Recordation and receipt of properly executed deed/mortgage to be insured.
 2. Mortgages returned herein; see Mortgage Schedule.
 3. Unpaid real estate taxes set forth herein which are existing liens on the premises. Detailed statements within.
 4. Proper photo identification of the parties to the transaction together with social security numbers must be furnished at the time of closing.
 5. Rights of the tenants, and/or others in possession, if any.
 6. Any state of facts that an accurate survey would show or an inspection of the premises would disclose.
 7. The nature of the transaction to be insured herein must be disclosed to the Company prior to closing. Title may be subject to additional exceptions as may be appropriate after disclosure of the type of transaction.
2. Organizational documents to be provided for each entity that is a certified owner herein or a proposed borrower.
3. Mortgages: see Mortgage Schedule herein.
4. Tax Searches - see herein. Note: 2018 Property Tax a lien as of January 1, 2018.

As to Property 1:

5. UCC-1 Financing Statement made by Schodack Donuts, Inc., Debtor, in favor of Hoosac Bank, Secured Party; filed July 31, 2012 in the Rensselaer County Clerk's Office, Document #02012189, covers collateral at 1792 Columbia Turnpike, Schodack; note: not continued.

As to Properties 1 and 2:

6 Tax Warrants:

New York State Department of Taxation and Finance Tax Warrant vs. Schodack Realty, LLC, 30 Commercial Dr, Castleton, NY 12033-1914, Warrant ID: E-036586537-W007-7, recorded February 7, 2017 in the Rensselaer County Clerk's Office in Book 189 at page 123, Document # 00055393, amount due: \$553.40; and

New York State Department of Taxation and Finance Tax Warrant vs. Schodack Realty, LLC, 30 Commercial Dr, Castleton, NY 12033, Warrant ID: E-036586537-W003-9, recorded May 15, 2014 in the Rensselaer County Clerk's Office in Book 119 at page 1, Document # 00035361, amount due: \$785.65.

7. Memorandum of Underlying Lease made by and between Schodack Realty, LLC, as Landlord, and Rensselaer County Industrial Development Agency, as Tenant, dated as of June 1, 2013 and recorded June 19, 2013 in the Rensselaer County Clerk's Office in Book 6821 at page 276.
8. Memorandum of Lease Agreement made by and between Rensselaer County Industrial Development Agency and Schodack Realty, LLC, dated as of June 1, 2013 and recorded June 19, 2013 in the Rensselaer County Clerk's Office in Book 6821 at page 286.
9. License Agreement made by and between Schodack Realty, LLC, as Licensor, and Rensselaer County Industrial Development Agency, as Licensee, dated as of June 1, 2013 and recorded June 19, 2013 in the Rensselaer County Clerk's Office in Book 6821 at page 298.