

**RESOLUTION AUTHORIZING REFINANCING
AND AMENDMENT OF BASIC DOCUMENTS
555-ONE, 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 March 12, 2020 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
Michael Della Rocco	Vice Chairman
Cynthia A. Henninger	Secretary/Treasurer
Ronald Bounds	Assistant Secretary/Treasurer
Douglas Baldrey	Member
Renee Powell	Member

ABSENT:

None

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Robert L. Pasinella, Jr.	Executive Director
Robin LaBrake	Assistant
John E. Sweeney, Esq.	Special Agency Counsel
Peter R. Kehoe, Esq.	Special Agency Counsel
Amanda Mirabito, Esq.	Special Counsel

The following resolution was offered by Michael Della Rocco, seconded by Cynthia Henninger, to wit:

Resolution No. 0320-10

**RESOLUTION AUTHORIZING THE EXECUTION BY
RENSSELAER COUNTY INDUSTRIAL DEVELOPMENT AGENCY
OF A CERTAIN MORTGAGE AND RELATED DOCUMENTS AND
AMENDMENT OF BASIC DOCUMENTS IN CONNECTION WITH
THE 555-ONE, 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 October 16, 2016, the Agency undertook a project (the "Project") on behalf of 555-One, LLC (the "Company") consisting of the following: (A) (1) the acquisition of an interest in an approximately 148,000 square foot parcel of land located at 555 Broadway (being a portion of tax map no. 143.52-1-1.1) in the City of Rensselaer, Rensselaer County, New York (the "Land"), (2) the construction on the Land of an approximately 140,000 square foot building and eight (8) garages (collectively, the "Facility") and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property, including without limitation, tenant improvement and finish (collectively, the "Equipment") (the Land, the Facility, and the Equipment being collectively referred to as the "Project Facility"); all of the foregoing to constitute an approximately 96 unit market rate apartment complex and any other directly and indirectly related activities; and (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 estate transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and

WHEREAS, in order to consummate the Project and the granting of the Financial Assistance, the Agency entered into the following documents (hereinafter collectively referred to as the "Basic Documents"): (A) a certain lease to agency dated as of October 1, 2016 (and a memorandum thereof) dated as of October 1, 2016, (the "Lease to Agency") by and between the Company and the Agency, pursuant to which, among other things, the Agency acquired a leasehold interest in the Land and the improvements now or hereafter located on the Land from the Company, (B) a certain license agreement dated as of October 1, 2016 (the "License to Agency") by and between the Company, as licensor, and the Agency, as licensee, pursuant to which the Company will grant to the Agency (a) a license to enter upon the balance of the Land (the "Licensed Premises") for the purpose of undertaking and completing the Project and (b) 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 lease agreement (and a memorandum thereof) dated as of October 1, 2016 (the "Lease Agreement" and, collectively with the Lease to Agency, the "Leases") by and between the Agency and the Company, pursuant to which, among other things, the Company agreed to undertake and complete the Project as agent of the Agency and the Company further

agreed to lease the Project Facility from the Agency and, as rental thereunder, to pay the Agency's administrative fee relating to the Project and to pay all expenses incurred by the Agency with respect to the Project, (D) a payment in lieu of tax agreement dated as of October 1, 2016, (the "PILOT 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; (E) a uniform project benefits agreement (the "Uniform Project Benefits Agreement") by and between the Agency and the Company regarding the granting of the financial assistance and the potential recapture of such assistance; (F) a certain recapture agreement (the "Section 875 GML Recapture Agreement") by and between the Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes; and (G) various certificates relating to the Project; and

WHEREAS, in order to provide construction financing for the Project, the Company obtained from Pioneer Savings Bank (the "Construction Lender"), a loan in the amount of \$15,757,405 (the "Construction Loan"); and

WHEREAS, the Agency joined in the execution of a building loan mortgage and security agreement (the "Construction Mortgage") from the Agency and the Company to the Construction Lender to secure the Construction Loan, which Construction Mortgage granted to the Construction Lender a mortgage on and security interest in the Project Facility and assigned to the Construction Lender all rents and leases relating to the Project Facility; and

WHEREAS, in order to permanently finance the Project, the Company has determined to obtain one or more loans from M&T Realty Capital Corporation (the "Permanent Lender") in the amount of approximately \$18,100,000 (the "Permanent Loan"); and

WHEREAS, the Permanent Loan will be assigned to Federal Home Loan Mortgage Corporation ("Freddie Mac"); and

WHEREAS, the Company has requested that (A) in order to secure the Permanent Loan, the Agency join with the Company in the execution of: (1) a multifamily mortgage, assignment of leases and rents and security agreement from the Company and the Agency in favor of the Permanent Lender (as may be amended, modified or assigned from time to time, the "Permanent Mortgage"), which Permanent Mortgage will grant to the Permanent Lender a mortgage lien on and security interest in the Project Facility and assign to the Permanent Lender all rents and leases relating to the Project Facility; and (2) certain additional loan documents as may be requested by the Permanent Lender in connection with the Permanent Loan (the "Additional Loan Documents" and, collectively with the Permanent Mortgage, the "Permanent Loan Documents"); (B) the Agency join with the Company in the execution of an Omnibus Amendment of Basic Documents (the "Omnibus Amendment"), which Omnibus Amendment will amend the Basic Documents to incorporate the provisions required by Freddie Mac and described in Exhibit A attached hereto; and (C) the Agency grant financial assistance in the form of a mortgage recording tax exemption with respect to the difference between the principal amount of the Permanent Loan and the principal amount of the Construction Loan (the "New Money Amount of the Permanent Loan"); and

WHEREAS, the Permanent Loan Documents shall constitute a “Permitted Encumbrance” under the Lease Agreement; and

WHEREAS, the sum of the mortgage tax exemption granted with respect to the Construction Mortgage and the mortgage tax exemption requested by the Company in connection with the New Money Amount of the Permanent Loan does not exceed the mortgage tax exemption specified in the Uniform Project Benefits Agreement; 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 approve the execution and delivery of the Permanent Loan Documents and the Omnibus Amendment and to grant a mortgage recording tax exemption with respect to the New Money Amount of the Permanent Loan (the “Transaction”); and

WHEREAS, pursuant to SEQRA, the Agency has examined the Transaction in order to make a determination as to whether the Transaction is subject to SEQRA, and it appears that the Transaction 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 Transaction, the Agency hereby makes the following determinations:

(A) The Transaction 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 Transaction.

(B) That since compliance by the Agency with the Transaction will not result in the Agency providing more than \$100,000 of additional “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 Transaction.

Section 2. The Agency, based upon the representations made by the Company to the Agency in the Basic Documents, hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act;

(B) Approving the Transaction will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Rensselaer County and the State of New York and improve their standard of living and will serve the public purposes of the Act.

Section 3. Subject to (A) compliance with the terms and conditions of the Basic Documents, (B) evidence of current certificates of insurance and policies indemnifying the Agency, and (C) payment by the Company of all fees and expenses of the Agency, including the fees of Agency Counsel and Special Counsel, in connection with the delivery of the Permanent Loan Documents and the Omnibus Amendment; and (D) determines to enter into the Permanent Loan Documents and the Omnibus Amendment.

Section 4. The Permanent Loan Documents and the Omnibus Amendment shall be in form and substance satisfactory to the Chairman (or Vice Chairman), Executive Director and the Agency Counsel and shall be in substantially similar form to such prior documents of the Agency.

Section 5. Subject to the satisfaction of the requirements of Section 3 hereof, the Chairman (or Vice Chairman) or Executive Director of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Permanent Loan Documents and the Omnibus Amendment, 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 the forms thereof as the Chairman (or Vice Chairman) or Executive Director shall approve, the execution thereof by the Chairman (or Vice Chairman) or Executive Director to constitute conclusive evidence of such approval.

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 Permanent Loan Documents and the Omnibus Amendment, 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 Permanent Loan Documents and the Omnibus Amendment binding upon the Agency.

Section 7. Neither the members nor officers of the Agency, nor any person executing the Permanent Loan Documents and the Omnibus Amendment on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution, issuance or delivery thereof or the transaction contemplated thereby.

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:

John H. Clinton, Jr.	VOTING	AYE
Michael Della Rocco	VOTING	AYE
Cynthia A. Henninger	VOTING	AYE
Ronald Bounds	VOTING	AYE
Douglas Baldrey	VOTING	AYE
Renee Powell	VOTING	AYE

The foregoing Resolution was thereupon declared duly adopted.

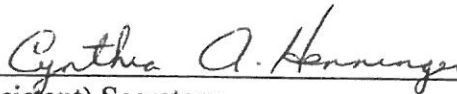
STATE OF NEW YORK)
) SS.:
COUNTY OF RENSSELAER)

I, the undersigned (Assistant) Secretary of Rensselaer County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on March 12, 2020 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein 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 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 12th day of March, 2020.



(Assistant) Secretary

(SEAL)

EXHIBIT A

ASSIGNMENT OF THE [LEASE AGREEMENT].

Except as otherwise provided in Section 8.4 hereof, this [Lease Agreement] may not be assigned by the Company, in whole or in part, without the prior written consent of the Agency, which consent may not be unreasonably withheld; provided, however, that the Agency hereby consents to the assignment of this [Lease Agreement] to [NAME OF LENDER] and/or Federal Home Loan Mortgage Corporation, together with their successors and/or assigns (collectively, “Lender”) in the event that Lender acquires title to the Property in a foreclosure or by deed in lieu of foreclosure, provided that Lender cures any default of Company hereunder that is monetary in nature or otherwise is capable of being cured by Lender. For the avoidance of doubt, “successors and/or assigns” shall not include any third-party purchaser who acquires title to the Property from Lender following a foreclosure or deed in lieu of foreclosure. Upon an assignment to Lender of this Lease Agreement, Lender shall provide Agency with a written notice of such assignment together with all contact information of Lender.