

**AMENDED APPROVING RESOLUTION
SUPERIOR METALS MANUFACTURING CO. PROJECT**

A special meeting of Madison County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency located at 3215 Seneca Turnpike in the Village of Canastota, Madison County, New York on September 4, 2020 at 10:00 o'clock a.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:

Richard Bargabos	Chairman
David Rogers	Vice Chairman
Elizabeth Moran	Secretary
Jack Romagnoli	Treasurer
Steven Potter	Member
Russell Lura	Member
John Salka	Member

Each of the members present participated in the meeting telephonically pursuant to Executive Order No. 202.1, as supplemented, issued by New York State Governor Andrew M. Cuomo, suspending provisions of Article 7 of the Public Officers Law that require public in-person access to public meetings and authorizing board members to participate in said meetings by conference call or similar service.

ABSENT:

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Kipp Hicks	Executive Director
Amanda Nicholas	Administrative Assistant
Christopher C. Canada, Esq.	Agency Counsel

The following resolution was offered by Salka, seconded by Rogers, to wit:

Resolution No. 0920-__

RESOLUTION AMENDING A RESOLUTION ENTITLED "RESOLUTION AUTHORIZING EXECUTION OF DOCUMENTS IN CONNECTION WITH A LEASE/LEASEBACK TRANSACTION FOR A PROJECT FOR SUPERIOR METALS MANUFACTURING CO. (THE "COMPANY")."

WHEREAS, Madison County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 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 305 of the 1975 Laws of New York, as amended, constituting

Section 893 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 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 July 20, 2020, the members of the Agency adopted a resolution (the "Approving Resolution") entitled "Resolution Authorizing Execution of Documents in Connection with a Lease/Leaseback Transaction For a Project For Superior Metals Manufacturing Co. (the "Company")"; and

WHEREAS, subsequent to the adoption of the Approving Resolution, the financial assistance to be provided by the Agency in connection with the transaction increased;

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

Section 1. After the seventh recital clause of the Approving Resolution, the following recital clauses are hereby included:

"WHEREAS, by further resolution adopted by the members of the Agency on July 20, 2020 (the "Approving Resolution"), the Agency determined to grant the Financial Assistance and to enter into a lease agreement (the "Lease Agreement") between the Agency and the Company and certain other documents related thereto and to the Project (collectively with the Lease Agreement, the "Basic Documents"). Pursuant to the terms of the Lease Agreement, (A) the Company will agree (1) to cause the Project to be undertaken and completed, and (2) as agent of the Agency, to undertake and complete the Original Project and (B) the Agency has leased the Project Facility to the Company. The Lease Agreement grants to the Company certain options to acquire the Project Facility from the Agency; and

WHEREAS, on August 20, 2020, the Agency received an amended application (the "Amended Application"), a copy of which is on file at the office of the Agency, pursuant to which the Company provided the estimated dollar amount of exemptions being sought by the Company in connection with the Project, said amounts as follows: exemption from sales and use taxes: \$500,000 and exemption from real property taxes: \$2,337,768. As the Amended Application results in Financial Assistance in excess of \$100,000, the Agency, pursuant to Section 859-a of the Act, must hold a public hearing with respect to the Amended Application (the "Revised Financial Assistance"); and

WHEREAS, pursuant to the Amended Application, the Executive Director of the Agency (A) caused notice of a public hearing of the Agency (the "Second Public Hearing") pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the

Project, to be mailed on August 21, 2020 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Second Public Hearing to be posted on a public bulletin board on August 21, 2020 at the Municipal Building located at 222 Genesee Street in the Village of Chittenango, Madison County, New York, as well as on the Agency's website, (C) caused notice of the Second Public Hearing to be published on August 25, 2020 in The Oneida Daily Dispatch, a newspaper of general circulation available to the residents of Madison County, New York, (D) as a result of the ban on large meetings or gatherings pursuant to Executive Order 202.1, as supplemented and the suspension of the Open Meetings Law relating to public hearings pursuant to Executive Order 202.15, as supplemented each as issued by Governor Cuomo in response to the novel Coronavirus (COVID-19) pandemic, conducted the Second Public Hearing on September 4, 2020 at 9:00 o'clock a.m., local time electronically via conference call rather than in person, and (E) prepared a report of the Second Public Hearing (the "Second Hearing Report") fairly summarizing the views presented at such Second Public Hearing and caused copies of said Second Hearing Report to be made available to the members of the Agency; and

Section 2. The remaining recital clauses of the Approving Resolution are hereby replaced by the recital clauses below:

"WHEREAS, the Agency has given due consideration to the Project, and to representations by the Company that (A) the granting by the Agency of the Revised Financial Assistance with respect to the Project will be an inducement to the Company to undertake the Project in Madison County, New York and (B) the completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility; and

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

WHEREAS, in order to consummate the Project and the granting of the Revised Financial Assistance described in the notice of the Second Public Hearing, the Agency proposes to enter into the following documents (hereinafter collectively referred to as the "Agency Documents"): (A) a certain lease to agency (the "Lease to Agency" or the "Underlying Lease") by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company will lease to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the "Leased Premises"); (B) a certain license agreement (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 will grant 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 lease agreement (and a memorandum thereof) (the "Lease Agreement") by and between the Agency and the Company, pursuant to which, among other things, the Company agrees to undertake the Project as agent of the Agency and the Company further agrees 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 (the "Payment in Lieu of Tax Agreement") by and between the Agency and the Company, pursuant to which the Company will agree 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; (G) a sales tax exemption letter (the "Sales Tax Exemption Letter") to ensure the granting of the sales tax exemption which forms a part of the Revised Financial Assistance; (H) a New York State Department of Taxation and Finance form entitled "IDA Appointment of Project Operator or Agency for Sales Tax Purposes" (the form required to be filed pursuant to Section 874(9) of the Act) (the "Thirty-Day Sales Tax Report") and any additional report to the Commissioner of the State Department of Taxation and Finance concerning the amount of sales tax exemption benefit for the Project (the "Additional Thirty-Day Project Report"); (I) if the Company intends to finance the Project with borrowed money, a mortgage and any other security documents and related documents (collectively, the "Mortgage") from the Agency and the Company to the Company's lender with respect to the Project ("the "Lender"), which Mortgage will grant a lien on and security interest in the Project Facility to secure a loan from the Lender to the Company with respect to the Project (the "Loan"); (J) if the Company requests the Agency to appoint a contractor or contractors, as agent(s) of the Agency (each, a "Contractor") (1) a certain agency indemnification agreement (the "Contractor Agency and Indemnification Agreement") by and between the Agency and the Contractor, (2) a certain recapture agreement (the "Contractor Section 875 GML Recapture Agreement") by and between the Agency and the Contractor, (3) a sales tax exemption letter (the "Contractor Sales Tax Exemption Letter"), and (4) a Thirty-Day Sales Tax Report (the "Contractor Thirty-Day Sales Tax Report") and any additional report to the Commissioner of the State Department of Taxation and Finance concerning the amount of sales tax exemption benefit for the Project (the "Additional Thirty-Day Project Report") (collectively, the "Contractor Documents"); (K) if the Company intends to request the Agency to appoint (1) the Company, as agent of the Agency and (2) a Contractor, as agent(s) of the Agency prior to closing on the Project and the Lease Agreement or Installment Sale Agreement, interim agency and indemnification agreements, interim Section 875 GML recapture agreements, interim sales tax exemption letters and interim thirty-day sales tax reports (collectively, the "Interim Documents") and (L) various certificates relating to the Project (the "Closing Documents");"

Section 3. (A) The Agency hereby amends Section 3(G) of the Approving Resolution to read as follows:

"(G) The granting of the Revised Financial Assistance by the Agency with respect to the Project will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Madison County, New York and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act;"

(B) The Agency hereby amends Section 3(H) of the Approving Resolution to read as follows:

“(H) The Agency has reviewed the Second Hearing Report and has fully considered all comments contained therein;”

(C) The Agency hereby amends Section 3(I) of the Approving Resolution to read as follows:

“(J) The Project should receive the Revised Financial Assistance in the form of exemptions based on the description of expected public benefits to occur as a result of this Project, as described on Exhibit A attached hereto and failure by the Company to meet the expected public benefits will result in a recapture event, as described on Exhibit B attached hereto.”

(D) The Agency hereby amends Section 4 of the Approving Resolution to read as follows:

“Section 4. In consequence of the foregoing, the Agency hereby determines to: (A) accept the License Agreement; (B) lease the Project Facility to the Company pursuant to the Lease Agreement; (C) acquire, construct and install the Project Facility, or cause the Project Facility to be acquired, installed and constructed; (D) enter into the Payment in Lieu of Tax Agreement; (E) enter into the Uniform Agency Project Agreement; (F) enter into the Section 875 GML Recapture Agreement; (G) enter into the Contractor Documents; (H) enter into the Interim Documents; (I) secure the Loan by entering into the Mortgage; and (J) grant the Revised Financial Assistance with respect to the Project.”

Section 4. Except as amended by this Resolution, the Approving Resolution shall remain in full force and effect and the terms and conditions thereof are hereby confirmed.

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:

Richard Bargabos	VOTING	<u>Yes</u>
David Rogers	VOTING	<u>Yes</u>
Elizabeth Moran	VOTING	<u>Yes</u>
Jack Romagnoli	VOTING	<u>Yes</u>
Steven Potter	VOTING	<u>Yes</u>
Russell Lura	VOTING	<u>Yes</u>
John Salka	VOTING	<u>Yes</u>

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned (Assistant) Secretary of Madison 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 September 4, 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") except as modified by Executive Order 202.1, as amended, 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, either in-person or appearing telephonically in accordance with Executive Order 202.1, as amended, 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 1 day of ~~September~~ *October*, 2020.

Elizabeth C. Moran

(Assistant) Secretary

(SEAL)

