

**APPROVING RESOLUTION
ORANGE COUNTY IRONWORKS, LLC PROJECT**

A special meeting of Town of Montgomery Industrial Development Agency (the "Agency") met in public session in the Town Hall located at 110 Bracken Road in the Town of Montgomery, Orange County, New York on August 10, 2009 at 6:00 o'clock p.m., local time.

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

PRESENT:

Alice Dickinson	Chairperson
Edwin Williams	Vice Chairperson
F. Edward Devitt	Second Vice Chairperson
Leslie Marvin	Secretary
Donna Jennings	Treasurer
Michael Hayes	Member ASST. SECRETARY
Stephen Rainaldi	Member

ABSENT:

**EDWIN WILLIAMS
LESLIE MARVIN
STEPHEN RAINALDI**

THE FOLLOWING PERSONS WERE ALSO PRESENT:

George W. Cregg, Jr., Esq. Counsel

The following resolution was offered by ED DEVITT, seconded by DONNA JENNINGS, to wit:

Resolution No. _____

RESOLUTION AUTHORIZING EXECUTION OF DOCUMENTS IN CONNECTION
WITH A LEASE/LEASEBACK TRANSACTION FOR A CERTAIN COMMERCIAL
PROJECT FOR ORANGE COUNTY IRONWORKS, LLC.

WHEREAS, 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 527 of the 1971 Laws of New York, as amended, constituting Section 911-c 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, and install one or more "projects" (as defined in the Act) or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, in November 2008, Orange County Ironworks, LLC, a New York limited liability company (the "Company"), submitted an application (the "Application") to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in a certain parcel of land containing approximately 23 acres located on Neelytown Road and Beaver Dam Road in the Town of Montgomery, Orange County, with a tax identification number of Section 36, Block 1, Part 28.22 (the "Land"), (2) the construction on the Land of an approximately 79,500 square foot building (the "Facility") and (3) the acquisition and installation therein and thereon of certain machinery and equipment (collectively, the "Equipment") (the Land, the Facility and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to constitute a steel fabrication facility to include the Company's offices and other directly or indirectly related activities; (B) the financing of all or a portion of the costs of the foregoing by the issuance of its industrial development revenue bonds in one or more issues or series in an aggregate principal amount sufficient to pay a portion of the cost of undertaking the Project, together with necessary incidental costs in connection therewith, presently estimated to be approximately \$6,000,000 (the "Obligations") (C) 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 (D) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the Company has notified the Agency that the Company will no longer be asking the Agency to issue the Obligations and will instead rely on traditional bank financing to fund the costs of the Project; and

WHEREAS, pursuant to the authorization contained in a resolution adopted by the members of the Agency on November 3, 2008 (the "Public Hearing Resolution"), the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the "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 November 26, 2008 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is or is to be located, (B) caused notice of the Public Hearing to be posted on November 26, 2008 on a bulletin board located at 110 Bracken Road in the Town of Montgomery, Orange County, New York, (C) caused notice of the Public Hearing to be published on December 3, 2008 in the Wallkill Valley Times, a newspaper of general circulation available to the residents of the Town of Montgomery, Orange County, New York, (D) conducted the Public Hearing on January 5, 2009 at 6:00 o'clock p.m., local time in the Town Government Center in the Town of Montgomery, Orange County, New York, and (E) prepared a report of the Public Hearing (the "Hearing Report") which fairly summarized the views presented at said Public Hearing and distributed same to the members of the Agency and the Town Board of the Town of Montgomery, New York (the "Town Board") and filed same in the files of the Agency; 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 (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6NYCRR Part 617, as amended (collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the Agency on August 10, 2009 (the "SEQR Resolution"), the Agency (A) ratified the determination by the Town of Montgomery Planning Board (the "Planning Board") to act as "lead agency" with respect to the Project, (B) acknowledged receipt of a copy of a negative declaration issued by the Planning Board on July 13, 2009 with respect to the Project (the "Negative Declaration"), and (C) indicated that the Agency had no information to suggest that the Planning Board was incorrect in authorizing issuance of the Negative Declaration; and

WHEREAS, based upon the Application, the Agency hereby determines that (A) the granting of the Financial Assistance will be an inducement to the Company to undertake the Project in Town of Montgomery, New York, (B) while the completion of the Project Facility may result in the removal of a facility of the Company or any other proposed occupant of the Project Facility from one area of the State of New York to another area of the State of New York or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located within the State of New York, the Company has represented that such abandonment and removal are reasonably necessary to (1) discourage the Company or any other proposed occupant from removing such plant or facility to a location outside the State of New York and (2) preserve the competitive position of the Company or the proposed occupant of the Project Facility in their respective industries; and, (C) accordingly the Agency is authorized to provide financial assistance in respect of the Project pursuant to Section 862(1) of the Act; 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 Town of Montgomery, New York by undertaking the Project in the Town of Montgomery, New York; and

WHEREAS, in order to consummate the Project and grant the Financial Assistance described in the notice of the 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) if the Company intends to finance the Project with borrowed money, one or more mortgages and any other security documents and related documents (collectively, the "Mortgage") from the Agency and the Company to the Company's lenders with respect to the Project (the "Lender"), which Mortgage will grant liens on and security interests in the Project Facility to secure one or more loans from the Lender to the Company with respect to the Project (collectively, the "Loan"); (F) all building loan and other agreements requested by the Lender in

connection with the Loan (collectively with the Mortgage, the "Loan Documents"); and (G) various certificates relating to the Project (the "Closing Documents");

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

Section 1. The Agency 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) The Project constitutes a "project," as such term is defined in the Act;

(C) The Project site is located entirely within the boundaries of the Town of Montgomery, New York;

(D) It is estimated at the present time that the costs of the planning, development, acquisition, construction, and installation of the Project Facility (collectively, the "Project Costs") will be approximately \$5,000,000;

(E) While the completion of the Project Facility may result in the removal of a facility of the Company or any other proposed occupant of the Project Facility from one area of the State of New York to another area of the State of New York or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located within the State of New York, the Company has represented that such abandonment and removal are reasonably necessary to (1) discourage the Company or any other proposed occupant from removing such plant or facility to a location outside the State of New York and (2) preserve the competitive position of the Company or the proposed occupant of the Project Facility in their respective industries;

(F) The Project Facility does not constitute a project where facilities or property that are primarily used in making retail sales of goods or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project, and accordingly the Project is not prohibited by the provisions of Section 862(2)(a) of the Act;

(G) The granting of the 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 the Town of Montgomery, New York and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act;

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

(I) It is desirable and in the public interest for the Agency to enter into the Agency Documents.

Section 2. In consequence of the foregoing, the Agency hereby determines to: (A) proceed with the Project; (B) acquire the Project Facility; (C) lease the Project Facility to the Company pursuant to the Lease Agreement; (D) enter into the Payment in Lieu of Tax Agreement; (E) secure the Loan by entering into the Loan Documents; and (F) grant the Financial Assistance with respect to the Project.

Section 3. The Agency is hereby authorized (A) to acquire a license in the Licensed Premises pursuant to the License Agreement, (B) to acquire a leasehold interest in the Leased Premises pursuant to the Underlying Lease, (C) to acquire title to the Equipment pursuant to a bill of sale (the "Bill of Sale to Agency") from the Company to the Agency, and (D) to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisitions are hereby approved, ratified and confirmed.

Section 4. The Agency is hereby authorized to acquire, construct and install the Project Facility as described in the Lease Agreement and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition, construction and installation are hereby ratified, confirmed and approved.

Section 5. The Chairperson (or Vice Chairperson) of the Agency, with the assistance of Agency Counsel, is authorized to negotiate and approve the form and substance of the Agency Documents.

Section 6. (A) The Chairperson (or Vice Chairperson) of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agency Documents, 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 Chairperson (or Vice Chairperson) shall approve, the execution thereof by the Chairperson (or Vice Chairperson) to constitute conclusive evidence of such approval.

(B) The Chairperson (or Vice Chairperson) of the Agency is hereby further authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 7. 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 Agency 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 Agency Documents binding upon the Agency.

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:

Alice Dickinson	VOTING	<u>YES</u>
Edwin Williams	VOTING	<u>ABSENT</u>
F. Edward Devitt	VOTING	<u>YES</u>
Leslie Marvin	VOTING	<u>ABSENT</u>
Donna Jennings	VOTING	<u>YES</u>
Michael Hayes	VOTING	<u>YES</u>
Stephen Rainaldi	VOTING	<u>ABSENT</u>

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned (Assistant) Secretary of Town of Montgomery 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 August 10, 2009 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 10th day of August, 2009.



(Assistant) Secretary

(SEAL)