

Transcript Document No. 8

**Final Authorizing Resolution  
167 Genesee Street, LLC Facility**

Date: July 11, 2017

At a meeting of the City of Utica Industrial Development Agency, Utica, New York (the "Agency"), held at One Kennedy Plaza, Second Floor, Urban and Economic Development Conference Room, Utica, New York on the 11th day of July 2017, the following members of the Agency were:

PRESENT:            Joseph Hobika, Sr.  
                         Vincent J. Gilroy, Jr.  
                         John Zegarelli

ALSO PRESENT:    Jack Spaeth

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to acquisition of a leasehold interest in, rehabilitation, renovation and equipping of a certain industrial development facility more particularly described below (167 Genesee Street, LLC Facility) and the leasing of the facility to 167 Genesee Street, LLC.

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

Joseph Hobika, Sr. voting aye  
Vincent J. Gilroy, Jr. voting aye  
John Zegarelli voting aye

RESOLUTION AUTHORIZING THE AGENCY TO EXECUTE THE LEASE AGREEMENT, LEASEBACK AGREEMENT, PILOT AGREEMENT, ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE 167 GENESEE STREET, LLC FACILITY LOCATED AT 167 – 169 GENESEE STREET IN THE CITY OF UTICA, ONEIDA COUNTY.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended and Chapter 710 of the Laws of 1981 of the State of New York (collectively, the "Act"), the City of Utica Industrial Development Agency (the "Agency") was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, 167 Genesee Street, LLC (the "Company") has requested the Agency assist in a certain industrial development facility consisting of acquisition, renovation and rehabilitation of an existing  $\pm 47,000$  square foot, six-story abandoned building (the "Improvements") situated on a  $0.17\pm$  acre parcel of land located at 167 – 169 Genesee Street, City of Utica, Oneida County, New York (the "Land"), and acquisition and installation of equipment in the Improvements (the "Equipment"), all for the adaptive reuse of the Improvements to create affordable housing, commercial and retail space, all for lease to commercial and/or retail and/or residential tenants and to enhance economic development and retain employment in downtown Utica (the Land, the Improvements and the Equipment are referred to collectively as the "Facility" and the renovation, rehabilitation and equipping of the Facility is referred to as the "Project"); and

WHEREAS, the Company has agreed to lease the Facility to the Agency pursuant to a Lease Agreement (the "Lease Agreement") between the Agency and the Company; and

WHEREAS, the Agency has agreed to lease the Facility back to the Company pursuant to a Leaseback Agreement between the Agency and the Company (the "Leaseback Agreement") for its operation; and

WHEREAS, the Company will sublease portions of the Facility to retail and/or commercial and/or residential tenants, to be determined;

WHEREAS, the Agency by resolution duly adopted on June 13, 2017 (the "Resolution") decided to proceed under the provisions of the Act to lease the Facility and directed that a public hearing be held so that all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency, or the location or nature of the Facility, could be heard; and

WHEREAS, in the Resolution the Agency determined the Project will promote employment opportunities and prevent economic deterioration in the area served by the Agency by filling the demand for market rate housing units described in a study released by

the County of Oneida entitled, *Oneida County Vision 2020 – Path Toward Prosperity Initiative* and providing quality housing for employers to attract a quality workforce to the region; and

WHEREAS, the Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company in the form of:

- Exemptions from sales and use taxes on materials and equipment purchased in connection with the renovation of the Facility, the value of which is estimated at \$205,494.00 but shall not exceed \$226,043.00; and
- Abatement of real property taxes for a period of ten years during which time the Company will pay no taxes during years 1-2; 25% of taxes during year 3; 30% of taxes during year 4; 40% of taxes during year 5; 50% of taxes during years 6-7; 60% of taxes during year 8; 70% of taxes during year 9; 80% during year 10 and 100% of taxes thereafter, the value of which is currently estimated at \$113,562,

which Financial Assistance represents a deviation from the Agency's Uniform Tax Exemption Policy (the "Policy"); and

WHEREAS, on June 26, 2017 the Agency notified the affected taxing jurisdictions in writing of its intention to deviate from its Policy, describing the Financial Assistance and its reasons for deviating from Policy; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities which may arise in connection with the transaction contemplated by the lease of the land and the transfer of a leasehold interest in the Facility.

NOW, THEREFORE, BE IT RESOLVED by the City of Utica Industrial Development Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. The Agency hereby finds and determines:

- (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; and
- (b) The Facility constitutes a "project", as such term is defined in the Act; and
- (c) The acquisition, construction, rehabilitation, renovation and equipping of the Facility, the financing of the Facility and the leasing of the Facility to the Company will promote and maintain the job opportunities, health, general prosperity and economic



welfare of the citizens of the City of Utica and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(d) The acquisition, construction, rehabilitation, renovation and equipping of the Facility is reasonably necessary to induce the Company to maintain and expand its business operation in the State of New York; and

(e) Based upon representations of the Company and the Company's Counsel, the Facility conforms with the local zoning laws and planning regulations of the City of Utica and all regional and local land use plans for the area in which the Facility is located; and

(f) It is desirable and in the public interest for the Agency to acquire a leasehold interest in the Facility and lease the Facility to the Company; and

(g) The SEQRA findings adopted by the Agency on June 13, 2017, encompassed the actions to be undertaken by this resolution and no changes have been made since that time to the proposed action that would create new or increased adverse environmental impacts; and

(h) The Lease Agreement, in form satisfactory to the Chairman and Agency Counsel, will be an effective instrument whereby the Company conveys to the Agency a leasehold interest in the Facility; and

(i) the Leaseback Agreement, in form satisfactory to the Chairman and Agency Counsel, will be an effective instrument whereby the Agency leases the Facility back to the Company; and

(j) the Payment-In-Lieu-of-Tax Agreement by and between the Agency and the Company (the "PILOT Agreement"), in form satisfactory to the Chairman and Agency Counsel, will be an effective instrument whereby the Agency and the Company set forth the terms and conditions of their Agreement regarding the Company's payments in lieu of real property taxes; and

(k) The Environmental Compliance and Indemnification Agreement (the "Environmental Compliance and Indemnification Agreement") by and between the Agency and the Company, in form satisfactory to the Chairman and Agency Counsel, will be an effective instrument whereby the Company agrees to comply with all Environmental Laws (as defined therein) applicable to the Facility and will indemnify and hold harmless the Agency and the Bank for all liability under all such Environmental Laws.

Section 2. In consequence of the foregoing, the Agency hereby determines to: (i) acquire a leasehold interest in the Facility from the Company pursuant to the Lease Agreement; (ii) execute, deliver and perform the Lease Agreement; (iii) lease the Facility back to the Company pursuant to the Leaseback Agreement, (iv) execute, deliver and perform the Leaseback Agreement, (v) execute, deliver and perform the PILOT Agreement, (vi) execute, deliver and perform the Environmental Compliance and Indemnification



Agreement, and (vii) deviate from its Policy and provide the Financial Assistance in support of the Project.

Section 3. The Agency is hereby authorized to accept a leasehold interest in the real property described in Exhibit A to the Lease Agreement and the personal property described in Exhibit B to 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 are hereby approved, ratified and confirmed.

Section 4. The form and substance of the Lease Agreement, the Leaseback Agreement, the PILOT Agreement and the Environmental Compliance and Indemnification Agreement (each in substantially the forms customarily used by the Agency and which, prior to the execution and delivery thereof, may be redated) are hereby approved.

Section 5.

(a) The Chairman, Vice Chairman, Secretary or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Lease Agreement, the Leaseback Agreement, the PILOT Agreement and the Environmental Compliance and Indemnification Agreement, in form satisfactory to the Chairman and Agency Counsel, with such changes, variations, omissions and insertions as the Chairman, Vice Chairman, Secretary or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the "Closing Documents"). The execution thereof by the Chairman, Vice Chairman, or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, Vice Chairman, Secretary or member of the Agency are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Leaseback Agreement).

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 Closing Documents, and to execute and deliver all such additional certificates, instruments and documents, 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 Closing Documents binding upon the Agency.

Section 7. This resolution shall take effect immediately.

STATE OF NEW YORK        )  
  : ss.:  
COUNTY OF ONEIDA        )

I, the undersigned Assistant Secretary of the City of Utica Industrial Development Agency, DO HEREBY CERTIFY:

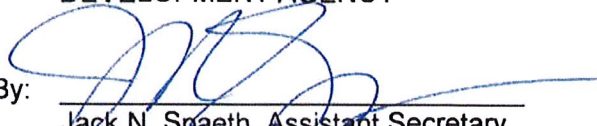
That I have compared the annexed extract of the minutes of the meeting of the City of Utica Industrial Development Agency (the "Agency"), including the resolutions contained therein, held on the 11th day of July 2017 with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Lease Agreement, the Leaseback Agreement, the PILOT Agreement and the Environmental Compliance and Indemnification Agreement contained in this transcript of proceedings are each in substantially the form approved by said meeting.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, (ii) pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand as of this 25<sup>th</sup> day of July 2017.

CITY OF UTICA INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Jack N. Spaeth, Assistant Secretary



Re: CITY OF UTICA INDUSTRIAL DEVELOPMENT AGENCY

STATE OF NEW YORK )  
                                  ) SS:  
COUNTY OF ONEIDA )

Jack N. Spaeth, being duly sworn, deposes and says:

On June 26, 2017 he deposited in a post office box regularly maintained by the United States Government in the City of Utica, New York, a copy of a Notice of Deviation from Uniform Tax Exemption Policy regarding the **167 Genesee St, LLC Facility**, regarding a meeting to be held on July 11, 2017 at 8:30AM, local time, at Utica City Hall, 1 Kennedy Plaza, City of Utica, Oneida County, New York 13502, copy of said Notice is attached hereto and made a part hereof, to the following parties at their respective addresses set forth below:

Anthony J. Picente, Jr.  
Oneida County Executive  
Oneida County Office Building  
800 Park Avenue  
Utica, New York 13501

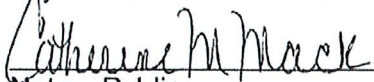
Robert M. Palmieri  
Mayor, City of Utica  
One Kennedy Plaza  
Utica, New York 13502

Christopher Salatino, President  
Board of Education  
Utica City School District  
106 Memorial Parkway  
Utica, New York 13501

Bruce Karam, Superintendent  
Utica City School District  
106 Memorial Parkway  
Utica, New York 13501

  
\_\_\_\_\_  
Jack N. Spaeth

Sworn to before me this 26<sup>th</sup>  
day of June 2017

  
\_\_\_\_\_  
Notary Public

CATHERINE M. MACK  
Notary Public, State of New York  
Reg.# 01MA6061896  
Appointed in Oneida County  
My Commission Expires July 23, 20 17



# CITY OF UTICA

Utica Industrial Development Agency  
1 Kennedy Plaza, Utica, New York 13502  
(315)792-0195 fax: (315)797-6607

**ROBERT PALMIERI**  
MAYOR

**JOSEPH HOBICA, SR**  
CHAIRMAN

**JACK SPAETH**  
EXECUTIVE DIRECTOR

June 26, 2017

Anthony J. Picente, Jr.  
Oneida County Executive  
Oneida County Office Building  
800 Park Avenue  
Utica, New York 13501

**Re: 167 Genesee St., LLC Facility**

Dear Sir:

On July 11, 2017 at 8:30 a.m. local time at Utica City Hall, Department of Urban and Economic Development Conference Room, One Kennedy Plaza, Utica, New York, the City of Utica Industrial Development Agency (the "Agency") will meet to consider a final authorizing resolution regarding this project for the use of 167 Genesee St., LLC (the "Company").

The Company has applied to the Agency for financial assistance in connection with a project consisting of the acquisition, rehabilitation and renovation of an existing  $\pm 47,000$  square foot, six-story abandoned building (the "Improvements") situated on a  $0.17\pm$  acre parcel of land located at 167 Genesee Street, City of Utica, Oneida County, New York (the "Land"), and the acquisition and installation of equipment in the Improvements (the "Equipment"), all for the adaptive reuse of the Improvements to create affordable housing, commercial and retail space, all for lease to commercial and/or retail and/or residential tenants and to enhance economic development and retain employment in downtown Utica (the Land, Improvements and Equipment collectively, the "Facility").

The financial assistance contemplated by the Agency constitutes a deviation from its Uniform Tax Exemption Policy (the "Policy") in the following respects: the Agency shall lease the Facility to the Company for a period of ten years, during which time the Company will pay no taxes during years 1-2; 25% of taxes during year 3; 30% of taxes during year 4; 40% of taxes during year 5; 50% of taxes during years 6-7; 60% of taxes during year 8; 70% of taxes during year 9; 80% during year 10 and 100% of taxes thereafter.



The Agency is also contemplating granting financial assistance in the form of exemptions from sales tax and mortgage recording tax, which is consistent with the Agency's Policy.

The Agency is deviating from its policy for the following reasons:

- ✓ The nature of the proposed Facility – **The mixed-use nature of the Facility will provide necessary amenities and is consistent with the Master Plan for the City of Utica.**
- ✓ The nature of the Facility before the project begins -- **The Facility is an abandoned building and a distressed property in the heart of downtown Utica. The property has been owned by the City of Utica for over \_\_\_ years and has been off the tax rolls for that time.**
- ✓ The economic condition of the area at the time of the application – **the Facility is located in an area that has been designated an economic development zone pursuant to Article 18-B of the General Municipal Law, and is therefore located in a "highly distressed area" (as defined in Section 854(18) of the New York General Municipal Law) because the Facility is located in a former Empire Development Zone as described in Article 18-B of the General Municipal Law**
- ✓ The impact of the proposed Facility on existing and proposed businesses and economic development projects in the vicinity – **redeveloping and stabilizing the Facility will help to revitalize downtown Utica**
- ✓ The extent to which the Facility will retain and increase permanent, private sector jobs
- ✓ The likelihood of accomplishing the proposed Facility in a timely fashion – **stabilization of the building has taken place as further deterioration of the structure would render it undevelopable**
- ✓ The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located – **as the building has been off the tax rolls for \_\_\_ years, private development and ownership will be a boost to the local taxing jurisdictions by providing for additional real property tax revenues.**


You are welcome to attend such meeting at which time you will have an opportunity, both orally and in writing, to present your views with respect to the project. We are providing this notice to you, pursuant to Chapters 356 and 357 of the Laws of 1993, as the chief executive officer of an affected tax jurisdiction within which the project is located.

Should you desire to discuss this matter or if you have any questions concerning this notice please feel free to contact Jack Spaeth at the Agency at telephone number 315-792-0195.

Very truly yours,

CITY OF UTICA INDUSTRIAL DEVELOPMENT AGENCY

By:

  
Jack M. Spaeth, Executive Director

JNS/lsr



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MAYOR

**JOSEPH HOBICA, SR**  
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**JACK SPAETH**  
EXECUTIVE DIRECTOR

June 26, 2017

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Mayor, City of Utica  
One Kennedy Plaza  
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- ✓ The nature of the proposed Facility – **The mixed-use nature of the Facility will provide necessary amenities and is consistent with the Master Plan for the City of Utica.**
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- ✓ The economic condition of the area at the time of the application – **the Facility is located in an area that has been designated an economic development zone pursuant to Article 18-B of the General Municipal Law, and is therefore located in a "highly distressed area" (as defined in Section 854(18) of the New York General Municipal Law) because the Facility is located in a former Empire Development Zone as described in Article 18-B of the General Municipal Law**
- ✓ The impact of the proposed Facility on existing and proposed businesses and economic development projects in the vicinity – **redeveloping and stabilizing the Facility will help to revitalize downtown Utica**
- ✓ The extent to which the Facility will retain and increase permanent, private sector jobs
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- ✓ The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located – **as the building has been off the tax rolls for \_\_\_ years, private development and ownership will be a boost to the local taxing jurisdictions by providing for additional real property tax revenues.**

You are welcome to attend such meeting at which time you will have an opportunity, both orally and in writing, to present your views with respect to the project. We are providing this notice to you, pursuant to Chapters 356 and 357 of the Laws of 1993, as the chief executive officer of an affected tax jurisdiction within which the project is located.

Should you desire to discuss this matter or if you have any questions concerning this notice please feel free to contact Jack Spaeth at the Agency at telephone number 315-792-0195.

Very truly yours,

CITY OF UTICA INDUSTRIAL DEVELOPMENT AGENCY

By: 

Jack N. Spaeth, Executive Director

JNS/lsr



# CITY OF UTICA

Utica Industrial Development Agency  
1 Kennedy Plaza, Utica, New York 13502  
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**ROBERT PALMIERI**  
MAYOR

**JOSEPH HOBICA, SR**  
CHAIRMAN

**JACK SPAETH**  
EXECUTIVE DIRECTOR

June 26, 2017

Christopher Salatino, President  
Board of Education  
Utica City School District  
106 Memorial Parkway  
Utica, New York 13501

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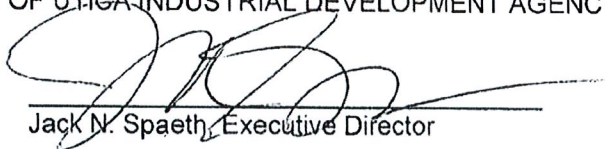
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By:

  
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By: 

Jack N. Spaeth, Executive Director

JNS/lsr