

**OLD THOMPSON ROAD, LLC  
(FELDMIEIER EQUIPMENT, INC.)**

**(3101-17-04B)**

**RESOLUTION APPROVING ADDITIONAL FINANCIAL ASSISTANCE**

A regular meeting of the Onondaga County Industrial Development Agency (the “Agency”) was convened in public session on October 9, 2018, at 8:10 a.m. at 333 W. Washington Street, Syracuse, New York.

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:** Patrick Hogan  
Janice Herzog  
Susan Stanczyk  
Kevin Ryan  
Steve Morgan  
Fanny Villarreal

**ABSENT:** Victor Ianno

**ALSO PRESENT:** Julie Cerio, Executive Director  
Anthony P. Rivizzigno, Esq., Agency Counsel  
Amanda M. Mirabito, Esq., Agency Counsel

The following resolution was offered by Janice Herzog, seconded by Susan Stanczyk, to wit:

**RESOLUTION APPROVING AN EXTENSION TO AND AN INCREASE IN THE AMOUNT OF FINANCIAL ASSISTANCE AWARDED TO THE PROJECT IN THE FORM OF AN EXEMPTION FROM STATE AND LOCAL SALES AND USE TAX; AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH**

**WHEREAS**, the Onondaga County Industrial Development Agency (the “Agency”) is authorized and empowered by 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”), Chapter 564 of the 1970 Laws of New York, as amended, constituting Section 895 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 industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, educational or cultural facilities, railroad facilities, horse racing facilities and continuing care retirement communities, among others, for the purpose of promoting, attracting, encouraging and developing recreation, and 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 and to improve their recreation opportunities, 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, improve, maintain, equip or furnish one or more “projects” (as defined in the Act); to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of said projects; and to issue bonds and provide for the rights of the holders thereof; and

**WHEREAS**, pursuant to an application submitted to the Agency on April 27, 2017 by Old Thompson Road, LLC (the “Company”), the Agency agreed, subject to numerous conditions, to undertake a project (the “Project”) consisting of the following: (A) acquisition of approximately 17 acres of vacant land in the Town of Dewitt, construction of an approximately 130,000 square foot building to house offices and manufacturing facility located in the Town of Dewitt, County of Onondaga; and (B) the granting by the Agency 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 taxes, real property taxes (subject to entry into a Payment in Lieu of Taxes (PILOT) Agreement) transfer and mortgage recording taxes (the “Financial Assistance”); and

**WHEREAS**, the Company was appointed as agent of the Agency for sales and use tax purposes through July 31, 2018 (the “Original Agent Appointment”) and the amount of State and local sales and use tax exemptions originally approved by the Agency as part of the Financial Assistance was an amount not to exceed \$424,952 (the “Original Sales Tax Exemption”); and

**WHEREAS**, on June 28, 2017, the Agency and the Company closed on the straight-lease transaction in connection with the Project and the Agency issued one or more Sales Tax Appointment Letters to the Company and filed the necessary Forms ST-60 – IDA Appointment of Project Operator or Agency for Sales Tax Purposes with the New York State Department of Taxation and Finance (the “ST-60s”); and

**WHEREAS**, pursuant to a resolution by the Agency dated August 14, 2018, the Agency agreed to an increase of \$80,000 to the Original Sales Tax Exemption, such that the total award of State and local sales and use tax exemptions would total \$504,952 for the Project; and

**WHEREAS**, by documents submitted to the Agency on or about October 4, 2018, the Company advised that the costs associated with the Project increased from initial estimates and that the acquisition, construction and installation of the Project Facility was expected to be extended to December 31, 2018; and

**WHEREAS**, as a result of the increased Project costs and increased time for the acquisition, construction and installation of the Project Facility, the Company is requesting an additional increase of \$3,490 (the “Increased Sales Tax Exemption”) to the Original Sales Tax Exemption, such that the total award of State and local sales and use tax exemptions would total \$508,442 for the Project, and an extension of the Original Agent Appointment to December 31,

2018 (the “Revised Agent Appointment Date” and collectively with the Increased Sales Tax Exemption, the “Additional Financial Assistance”); and

**WHEREAS**, the Additional Financial Assistance is in furtherance of the Financial Assistance previously approved for the Project, which underwent an environmental review by the Agency pursuant to the State Environmental Quality Review Act (“SEQRA”), and the requested Additional Financial Assistance does not require reconsideration or further review by the Agency under SEQRA.

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

**Section 1.** The granting of the Additional Financial Assistance is not considered a substantial change to the Project that would require further or supplemental review under SEQRA.

**Section 2.** The granting of the Additional Financial Assistance will be an inducement to the Company to continue to support the Project in the Town of Dewitt, County of Onondaga, will enable the Company to ensure the continued physical and financial viability of the Project and will promote employment opportunities and prevent economic deterioration in the County of Onondaga by the creation and preservation of jobs.

**Section 3.** Subject to the terms and conditions of this Resolution, the Agency will grant the Additional Financial Assistance, provided that: (i) no default shall have occurred and be continuing under any document between the parties, or binding thereon, relative to the Project; (ii) the Company shall execute and deliver all other certificates and documents necessary or appropriate for the grant of the Additional Financial Assistance requested by the Agency, in a form and substance acceptable to the Agency; and (iii) the Company shall provide to the Agency any and all reporting information required by the Agency in compliance with the Act.

**Section 4.** The terms and conditions of subdivision 3 of Section 875 of the Act are herein incorporated by reference and the Company shall agree to such terms as a condition precedent to receiving or benefiting from an exemption from New York State sales and use exemptions benefits. Notwithstanding anything herein to the contrary, the amount of State and local sales and use tax exemption benefits comprising the ***total aggregate*** Original Sales Tax Exemption and Increased Sales Tax Exemption approved shall not exceed \$508,442.

**Section 5.** The appointment of the Company as temporary agent of the Agency for sales and use tax purposes shall be extended through December 31, 2018.

**Section 6.** The Chief Executive Officer is hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the documents and agreements identified herein and any such additional certificates, instruments, documents or affidavits, to pay any such other fees, charges and expenses, to make such other changes, omissions, insertions, revisions, or amendments to the documents referred to herein and to do and cause to be done any

such other acts and things, as they determine, on advice of counsel to the Agency, may be necessary or desirable to consummate the transactions contemplated by this resolution.

**Section 7.** No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to above shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

**Section 8.** Should the granting of the Additional Financial Assistance be challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursement of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under the Act to provide the Additional Financial Assistance, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

**Section 9.** Counsel to the Agency is hereby authorized to work with the Company and others to prepare for submission to the Agency any and all documents necessary to effect the grant of the Additional Financial Assistance.

**Section 10.** A copy of this Resolution shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

**Section 11.** The Chief Executive Officer of the Agency is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

**Section 12.** 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:

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Patrick Hogan	X			
Janice Herzog	X			
Victor Ianno				X
Steve Morgan			X	
Susan Stanczyk				
Kevin Ryan				
Fanny Villarreal				

The Resolution was thereupon declared duly adopted.

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

I, the undersigned Executive Director of the Onondaga County Industrial Development 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 October 9, 2018, with the original thereof on file in my office, and that the same is a true and correct copy of such proceedings of the Agency and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matter 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 this 9<sup>th</sup> day of October, 2018.

  
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JULIE CERIO, Executive Director