

RESOLUTION
(JBJ Real Property, LLC Project)

A regular meeting of Auburn Industrial Development Authority was convened at Training Room, 3rd Floor, Memorial City Hall in the City of Auburn on May 30, 2012 at 4:00 p.m.

The following resolution was duly offered and seconded, to wit:

Resolution No. _____

**RESOLUTION APPROVING EXECUTION BY THE
AUBURN INDUSTRIAL DEVELOPMENT AUTHORITY
(THE "AUTHORITY") OF AN AGENT AGREEMENT,
LEASE AGREEMENT, LEASEBACK AGREEMENT,
PILOT AGREEMENT, AND RELATED DOCUMENTS
WITH RESPECT TO THE JBJ REAL PROPERTY, LLC
PROJECT**

WHEREAS, the Auburn Industrial Development Authority (the "**Authority**") is authorized and empowered by the provisions of the Auburn Industrial Development Authority Act, Chapter 915 of the 1969 Laws of New York constituting Title 15 of Article 8 of the Public Authorities Law, Chapter 43-A of the Consolidated Laws of New York, as amended (the "**Act**"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities, and facilities for use by a federal agency or medical facility, among others, and thereby to advance the job opportunities, health, general prosperity and economic welfare of the people of the City of Auburn and improve their medical care and standard of living; and

WHEREAS, JBJ Real Property, LLC, for itself or on behalf of an entity to be formed (the "**Company**"), has requested the Authority's assistance with a certain project (the "**Project**") consisting of: (i) the acquisition of 20 parcels of land located on Genesee Street, East Genesee Street, State Street, Dill Street and John Street in the City of Auburn, New York totaling approximately 3.35 acres, as more fully set forth on Exhibit "A" hereto (the "**Land**") improved by 18 existing buildings totaling approximately 112,328 square feet (the "**Existing Improvements**"), (ii) the renovation and equipping by the Company as agent of the Authority of the Existing Improvements for use as residential apartments, retail and commercial space and parking (the "**Improvements**"), (iii) the acquisition and installation in and around the Existing Improvements and the Improvements by the Company of certain items of machinery, equipment and other tangible personal property (the "**Equipment**", and collectively with the Land, the Existing Improvements and the Improvements, the "**Facility**"); and

WHEREAS, the Authority desires to encourage the Company to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of the City of Auburn by retaining and expanding the Facility in the City of Auburn; and

WHEREAS, the Authority will appoint the Company as its agent to undertake the Project pursuant to the terms of an Agent Agreement (the "**Agent Agreement**") by and between the Authority and the Company; and

WHEREAS, the Authority will acquire a leasehold interest in the Facility pursuant to the terms of a Lease Agreement (the "**Lease Agreement**") by and between the Authority and the Company; and

WHEREAS, the Company has requested the Authority to enter into a Leaseback Agreement (the "**Leaseback Agreement**") whereby the Company will lease the Facility from the Authority on the terms and conditions set forth therein; and

WHEREAS, the Company has requested the Authority to enter into a payment in lieu of taxes agreement (the "**PILOT Agreement**") with the Company on substantially the terms and conditions set forth on Exhibit "B" attached hereto; and

WHEREAS, the Authority has considered reasons why it should deviate from its Uniform Tax Exemption Policy and enter into a PILOT Agreement providing for payments and related provisions as set forth in the draft thereof presented to this meeting; and

WHEREAS, the Authority has considered reasons why it should deviate from its Uniform Tax Exemption Policy and enter into a PILOT Agreement providing for payments and related provisions as set forth in the draft thereof presented to this meeting; and

WHEREAS, the execution of the PILOT Agreement will enhance opportunities of the citizens of the City of Auburn.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE AUBURN INDUSTRIAL DEVELOPMENT AUTHORITY AS FOLLOWS:

1. The Authority hereby finds that the nature of the Facility justifies the PILOT Agreement and deviation from its Uniform Tax Exemption Policy for the reasons presented on Exhibit "C" hereto.

2. The Authority hereby finds that the nature of the Project justifies the PILOT Agreement and, subject to the conditions set forth in paragraph 3 of this Resolution and delivery of the PILOT Agreement by the Authority in accordance with Exhibit "B" presented to this meeting.

3. The Chairman, Vice Chairman and/or any other officer of the Authority are hereby authorized, on behalf of the Authority, to execute and deliver the Agent Agreement, Lease Agreement, Memorandum of Lease Agreement, Leaseback Agreement, Memorandum of Leaseback Agreement, the PILOT Agreement, and related documents (collectively, the "**Authority Documents**") in the such form as shall be approved by the Chairman and/or Vice Chairman upon execution.

4. The Chairman, Vice Chairman and/or any other officer of the Authority are hereby authorized, on behalf of the Authority, to execute and deliver the Authority Documents and any such other documents and agreements as may be necessary to carry out the intent of these resolutions; and, where appropriate, the Secretary or Assistant Secretary of the Authority is hereby authorized to affix the seal of the Authority to the Authority Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chairman and/or Vice Chairman of the Authority shall approve, the execution thereof by the Chairman and/or Vice Chairman of the Authority to constitute conclusive evidence of such approval; provided in all events recourse against the Authority is limited to the Authority's interest in the Project.

5. The execution and delivery of the Authority Documents by the Authority as contemplated herein shall be subject to: (A) agreement by the Company and the Authority to the final form of the Authority Documents; (B) agreement between the Company and the Authority as to payment by the Company of the administrative fee of the Authority, if any; and (C) the Authority's adherence to the procedures for deviation from the Authority's uniform tax exemption policy set forth in Section 2315 of the Act prior to execution and delivery of the PILOT Agreement.

6. The Chairman, Vice Chairman and Secretary of the Authority are hereby authorized and directed to do such further things and perform such further acts as may be necessary or convenient to implement the provisions of this Resolution.

7. That 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>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
James Dacey, Chairman				
Laurie Ann Dido, Treasurer				
Matthew Smith, Member				
Sue Chandler, Member				
William Andre, Member				
Monika Salvage, Member				
William Graney, Member				
Michael Kane, Member				

This Resolution was thereupon duly adopted.

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

I, the undersigned Secretary of the Auburn Industrial Development Authority, DO
HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Auburn Industrial Development Authority (the "**Authority**"), including the resolution contained therein, held on May 30, 2012, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Authority and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Authority had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Authority 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 modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Authority this 11TH day of June, 2012.



Sue Chandler, Secretary



[SEAL]

Exhibit "A"
The Land

<u>ADDRESS</u>	<u>TAX PARCEL NO.</u>
117 Genesee Street, Auburn, NY	115.60-2-50
119 Genesee Street, Auburn, NY	115.60-2-51
16 State Street, Auburn, NY	116.45-2-18
18-20 State Street, Auburn, NY	116.45-2-17 & 116.45-2-16
24 State Street, Auburn, NY	116.45-2-15
34-36 Dill Street, Auburn NY	116.45-2-14
15 East Genesee Street, Auburn, NY	116.45-1-70
17 East Genesee Street, Auburn, NY	116.45-1-71
19 East Genesee Street, Auburn, NY	116.46-1-1
21 East Genesee Street, Auburn, NY	116.46-1-10
23 East Genesee Street, Auburn, NY	116.46-1-2
25 East Genesee Street, Auburn, NY	116.46-1-4
27 East Genesee Street, Auburn, NY	116.46-1-5
5 John Street, Auburn, NY	116.46-1-9
6 John Street, Auburn, NY	116.46-1-12
7 John Street, Auburn, NY	116.46-1-8
9 John Street, Auburn, NY	116.46-1-11
10 John Street, Auburn, NY	116.38-1-50
12 John Street, Auburn, NY	116.38-1-51.2
14 John Street, Auburn, NY	116.38-1-51.1

Exhibit "B"
Terms of PILOT Agreement

Term: 15 years

Payment Terms:

Years 1-2

Payments shall be based upon the current assessment of the Project, agreed to be Three Million Eighteen Thousand One Hundred Ninety-One Dollars and 00/100 (\$3,018,191.00) at the current tax rate; provided, however, that payments for years one and two shall be deferred and payments that would have otherwise been made in such years shall be due and payable, pro rata, without interest, during years three through fifteen.

Years 3-12

Payment for each year shall be One Hundred Thirty-One Thousand One Hundred Fifty-Five Dollars and 00/100 (\$131,155.00) consisting of (a) One Hundred Thirteen Thousand Six Hundred Sixty-Eight Dollars and 00/100 (\$113,668.00) agreed payment; plus (b) Seventeen Thousand Four Hundred Eighty-Seven Dollars and 00/100 (\$17,487.00) deferred from years one and two.

Years 13-15

Payments for each year shall be an amount equal to (a) a fixed assessment of the Project Six Million Seven Hundred Thousand Dollars and 00/100 (\$6,700,000.00) taxed at then-current rates; multiplied by (b) (i) thirty-four percent (34%) for year thirteen; and (ii) sixty-seven percent (67%) for year fourteen; plus (c) Seventeen Thousand Four Hundred Eighty-Seven Dollars and 00/100 (\$17,487.00) deferred from years one and two.

The foregoing payments are based upon assessments agreed upon by the Company, which the Company agrees shall not be challenged.

Recapture: The PILOT Agreement shall contain provisions pursuant to which the benefits granted to the Company shall be repaid by the Company, pro rata, in the event (a) the Project is sold or control of the ownership of the Company is transferred prior to the tenth (10th) anniversary of the closing; or (b) the Company fails to meet seventy-five (75%) of the projected employment set forth in the Company's application for financial assistance, in any year, beginning on the third (3rd) anniversary of the closing.

Exhibit "C"
Justifications for Deviations from Uniform Tax Exemption Policy

1. Project Overview.

- (a) Twenty parcels totaling approximately 3.35 acres
- (b) 30 loft apartments
- (c) 7 store fronts

2. Commercial Projects That Can be Undertaken by IDA

- (a) A comptroller decision squarely dealt with the issue of whether a residential project may be considered a commercial project that can be undertaken by an IDA
- (b) Two elements of any valid commercial activity appear to be (i) the promotion of employment opportunities and (ii) the prevention of economic deterioration in an area for whose benefit the agency was created.

3. The Project as a Historic Preservation Project

- (a) The Project is more than just the development of residential structures – it's the preservation of an unproductive, historical structures.
- (b) Historic preservation is a central component to long-term economic development.
- (c) According to the 2000 consensus, the city of Auburn is an economically distressed city
- (d) The JBJ Real Property, LLC plans to invest approximately \$6,000,000 into downtown Auburn

4. Historic Preservation and Economic Development.

- (a) According to the Preservation League of NY, \$1 million spent rehabilitating an historical structure in NY ultimately adds \$1.9 million to the State's economy.
- (b) It notes that the rehabilitation of historic structures is an effective job creator because of the labor intensity of the work.

5. Continuation of the City's Efforts to Restore the Vitality and Prosperity of Auburn

- (a) The City has begun a number of projects to make Auburn a more attractive place to live
 - State Street Pedestrian Mall Renovation
 - Auburn Downtown Improvement
 - JBJ Real Property, LLC plans to add to the City's efforts to revitalize Auburn

6. Similar Projects Undertaken by Neighboring IDAs

- (a) The Syracuse IDA has undertaken numerous projects similar to the Project.

- (b) For example, in August 2005, SIDA authorized a PILOT for the Willow Street Lofts project, which is a rehabilitated historical structure into 48 market rate, loft apartments on Willow Street in Syracuse

7. Promotion of Employment Opportunities and Prevention of Economic Deterioration.

- (a) The rehabilitation and adaptive reuse of these parcels will create many construction jobs and require professional services from legal and accounting to architectural and realty services.
- (b) According to David Mankiewicz, deputy director of the Downtown Syracuse Committee and assistant to the president of the Metropolitan Development Association of Syracuse and Central New York, Inc., people who live downtown spend, on average, about four times as much money as people who work downtown. (Taken from a CNY Business Journal Article Jan. 13, 2006)
- (c) Accordingly, a 75-person residential unit would bring as much revenue to a downtown as a 300-person office building.