

WCIDA Minutes 9/28/2012 – Attachment One
PROJECT AUTHORIZING RESOLUTION
(NMM Properties, LLC Project)

A regular meeting of the Wayne County Industrial Development Agency was convened on September 28, 2012 at 9:30 a.m.

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

Resolution No. 09/2012 - __

RESOLUTION OF THE WAYNE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") (i) AUTHORIZING THE UNDERTAKING OF A CERTAIN PROJECT (AS MORE PARTICULARLY DESCRIBED HEREIN) BY AND FOR THE BENEFIT OF NMM PROPERTIES, LLC (THE "COMPANY") AS AGENT OF THE AGENCY; (ii) ACCEPTING THE MINUTES OF A PUBLIC HEARING HELD BY THE AGENCY IN CONNECTION WITH THE PROJECT; (iii) AUTHORIZING A CERTAIN CONTEMPLATED DEVIATION FROM THE AGENCY'S UNIFORM TAX EXEMPTION POLICY (AS MORE FULLY DESCRIBED HEREIN); (iv) AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, PAYMENT-IN-LIEU-OF-TAX AGREEMENT RELATING TO THE PROJECT; (v) APPROVING THE PROVISION OF FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, DEMOLITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, (B) A PARTIAL REAL PROPERTY TAX ABATEMENT THROUGH A PAYMENT-IN-LIEU-OF-TAX AGREEMENT, AND (C) MORTGAGE RECORDING TAX EXEMPTION(S) FOR THE FINANCING OR REFINANCING RELATED TO THE PROJECT; (vi) ADOPTING A NEGATIVE DECLARATION WITH RESPECT TO THE PROJECT PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; AND (vii) AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 916 of the Laws of 1969 of the State of New York, (the "Act"), the **WAYNE COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (the "Agency") was created with the authority and power to promote, develop, encourage and assist in acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, civic, research, and recreational facilities as authorized by the Act, and in connection therewith to issue its revenue bonds, and/or enter into straight lease transactions and provide other forms of financial assistance; and

WHEREAS, **NMM PROPERTIES, LLC** (the "Company"), has submitted an application to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of (i) the acquisition by the Agency of fee title to, or a leasehold interest in, an approximately 9.32 acres of land located at or adjacent to 1503 Canandaigua Road in the Town of Macedon, Wayne County (the "Land", being more particularly described as TMID Nos. 62111-10-289726, 62111-10-309731, 62111-10-303700 and 62111-10-264961; and collectively referred to as the "Macedon Commons Shopping Center") and the existing improvements thereon consisting of approximately 73,278 square feet of retail space contained within three (3) principal buildings and related parking areas, curbage, lighting, site improvements and amenities (collectively, the "Existing Improvements"); (ii) the reconstruction and renovation of certain portions of the Existing Improvements, including (a) the reconfiguring and renovation of certain tenant spaces, and (b) the renovation and reconstruction of certain parking areas, curbage, lighting, site improvements and amenities (collectively, the "Improvements"); and (iii) and acquisition of and installation in and around the Land, Existing Improvements and Improvements by the Company of machinery, equipment, furniture, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land, Existing Improvements and Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"); and

WHEREAS, by resolution adopted August 24, 2012 (the "Initial Project Resolution"), the Agency (i) accepted the Application submitted by the Company in connection with the Project, (ii) described the forms of financial assistance the Agency contemplates providing to the Company, including (a) a sales and use tax exemption for purchases and rentals related to the acquisition, demolition, construction and equipping of the Project, (b) a partial real property tax abatement through the PILOT Agreement, and (c) a mortgage recording tax exemption(s) for the financing related to the Project (collectively, the "Financial Assistance"); and (iii) authorized the scheduling, notice and conduct of a public hearing pursuant to and in accordance with the Act (the "Public Hearing"); and

WHEREAS, pursuant to General Municipal Law Section 859-a, on September 24, 2014 at 9:30 a.m. local time, at Town of Macedon Town Hall, 32 Main Street, Macedon, NY 14502, the Agency held a public hearing with respect to the Project and the proposed financial assistance (the "Financial Assistance") being contemplated by the Agency (the "Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views (a copy of the Minutes of the Public Hearing along with the Notice of Public Hearing published and forwarded to the affected taxing jurisdictions thirty (30) days prior to said Public Hearing are attached hereto as **Exhibit A**); and

WHEREAS, the Company has submitted to the Agency a Short Environmental Assessment Form (the "EAF") in compliance with Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, "SEQRA") with respect to the Project, a copy of which is attached hereto as **Exhibit B**; and

WHEREAS, it is contemplated that the Agency will (i) designate the Company as its agent for the purpose of acquiring, renovating, rehabilitating, upgrading and retro-fitting the Land and Existing Improvements, along with the equipping of the Facility, (ii) enter into a lease agreement (the "Lease Agreement"), leaseback agreement (the "Leaseback Agreement"), payment-in-lieu-of-tax agreement (the "PILOT Agreement") and related documents in furtherance of acquiring a leasehold interest in the Land, the Improvements, Equipment and personal property constituting the Project, and lease same back to the Company in furtherance of the Act; and

WHEREAS, the contemplated Financial Assistance to be provided to the Company under the PILOT Agreement deviates from the Agency's Uniform Tax Exemption Policy, and in accordance with the Act, deviation notice letters (the "Notice Letter") detailing the proposed deviation (the "Deviation") were transmitted by the Agency to the chief executive officers of each affected tax jurisdiction on or about August 24, 2012 (a copy of the Notice Letter is attached hereto as Exhibit C); and

WHEREAS, the Agency, having (i) provided response to comments from the affected tax jurisdictions relative to the Deviation; and (ii) allowed any representative of the affected tax jurisdictions to address the Agency with respect to the Deviation, desires to proceed with the Project and the provision of the Financial Assistance.

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

Section 1. The Company has presented an Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's Application, 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; and

(B) It is desirable and in the public interest for the Agency to (i) acquire a leasehold interest in the Land, the Existing Improvements, the Improvements and the Equipment constituting the Facility pursuant to the Lease Agreement, (ii) lease the Agency's interest in the Land, the Existing Improvements, the Improvements and the Equipment constituting the Facility to the Company pursuant to the Leaseback Agreement, and (iii) enter into a Straight Lease Transaction pursuant to the Act with the Company; and

(C) The Agency has the authority to take the actions contemplated herein under the Act; and

(D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Wayne County, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) Although the Project will result in the abandonment of one or more plants or facilities of the Company located within the State, the Agency hereby finds that, based on the Company's Application, the Project is reasonably necessary to discourage the Company from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Company in its industry.

(F) The Project involves an "unlisted action" (as such quoted term is defined under SEQRA). The review is "uncoordinated" (as such quoted term is defined under SEQRA). Based upon the review by the Agency of the EAF and related documents delivered by the Company to the Agency and other representations made by the Company to the Agency in connection with the Project, the Agency hereby finds that (i) the Project will result in no major impacts and, therefore, is one which may not cause significant damage to the environment; (ii) the Project will not have a "significant effect on the environment" (as such quoted term is defined under SEQRA); and (iii) no "environmental impact statement" (as such quoted term is defined under SEQRA) need be prepared for this action. This determination constitutes a "negative declaration" (as such quoted terms are defined under SEQRA) for purposes of SEQRA. The Agency's findings are incorporated in Part II of the EAF.

Section 2. The Agency hereby accepts the verbal summary report of comments and questions received by the Agency at the Public Hearing. Further, the Agency has given due consideration and responded to the written comments previously received and presented at this meeting in connection with the proposed Deviation, and for the reasons set forth in the Notice Letter and discussed before this meeting, the Agency hereby authorizes the undertaking of the Deviation as discussed before this meeting and the provision of the Financial Assistance to the Company.

Section 3. Subject to the Company executing the Leaseback Agreement and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, renovate, construct and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; provided, however, the Agent Agreement shall expire on December 31, 2013 (unless extended for good cause by the Executive Director of the Agency).

Section 4. The Chairman, Vice Chairman, the Executive Director and/or the Deputy Executive Director of the Agency are hereby authorized, on behalf of the Agency to execute and deliver: (A) the Lease Agreement whereby the Company leases the Project to the Agency, (B) the related Leaseback Agreement conveying the Project back to the Company, (C) the PILOT Agreement, and (D) related documents associated with the Straight Lease Transaction (and collectively, the "Straight Lease Documents"); provided (i) the rental payments under the

Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project.

Section 5. The Chairman, Vice Chairman the Executive Director and/or the Deputy Executive Director of the Agency are hereby authorized, on behalf of the Agency to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents by any lender identified by the Company (the "Lender") to undertake the Project and/or finance equipment and other personal property and related transactional costs (hereinafter, with the Straight Lease Documents, the "Agency Documents"), provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

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 and to execute and deliver all such 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 resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 7. These Resolutions shall take effect immediately upon adoption.

The question of the adoption of the foregoing resolutions was duly put to vote on roll call, which resulted as follows:

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
David Spickerman, Sr.	XX			
James Hoffman	XX			
Willard Milliman			XX	
Robert Havrilla	XX			
Pamela Heald	XX			

The resolutions were thereupon duly adopted.

STATE OF NEW YORK)
COUNTY OF WAYNE) ss:

I, the undersigned Secretary of the Wayne County Industrial Development Agency, DO
HEREBY CERTIFY:

That I have compared the foregoing extract of the minutes of the meeting of the Wayne
County Industrial Development Agency (the "Agency") including the resolution contained
therein, held on September 28, 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 Agency and of such resolution set forth
therein and of the whole of said original insofar as the same relates to the subject matters therein
referred to.

I FURTHER CERTIFY that all members of said Agency 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 Article 7.

I FURTHER CERTIFY that 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 modified.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Agency this 28th
day of September, 2012.



Marie Leisenring, Secretary

[SEAL]