

Wayne County IDA  
Minutes – December 10<sup>th</sup>, 2010  
Regular Board Meeting

The regular board meeting of the Wayne County IDA was called to order at 9:38 a.m. on December 10<sup>th</sup>, 2010, by Vice Chairman James Hoffman. Members present: James Hoffman, Robert Havrilla, Willard Milliman, and Marvin Decker. Also present: Brian Manktelow, Lyons Town Supervisor; Justin Miller, Esq., John Morell, Esq.; also: P. Churchill, D. Richards, J. VanDusen and M. Leisenring.

On motion of Mr. Decker, seconded by Mr. Milliman and carried the minutes of the previous meeting, held 11/19/2010, were approved.

**Resolution A\_\_ - Pomona Packing, LLC – Modify Loan Guarantors**

Whereas, Pomona Packing, LLC was approved for a \$300,000 Revolving Loan Fund Loan on November 19, 2010; and

Whereas, it is the intent of the WCIDA to require a guaranty of owners equal to 120% of their proportional ownership share; and

Whereas, Matthew D. Smith is not an owner and William Cahoon d/b/a Bovee Farms is a new 6% owner; be it therefore

Resolved, that WCIDA approves the release of Matthew D. Smith and adds William Cahoon d/b/a/ Bovee Farms as a guarantor of the loan

Moved: Mr. Decker            Second: Mr. Havrilla  
Ayes: Messrs. Decker, Havrilla, Hoffman and Milliman

**Resolution B - Pomona Packing, LLC – Modify Loan Collateral**

Whereas, Pomona Packing, LLC was approved for a \$300,000 Revolving Loan Fund Loan on November 19, 2010; and

Whereas, the original approval included a second mortgage as well as a blanket second lien on all business assets as collateral; and

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Whereas, the company has proposed that we replace the blanket lien with a lien on specific equipment valued in excess of the loan amount; and

Whereas, such a collateral arrangement is beneficial to all parties; be it therefore

Resolved, that WCIDA approves taking the second lien on specific equipment valued in excess of the loan amount as collateral for the loan.

Moved: Mr. Milliman                      Second: Mr. Decker  
Ayes: Messrs. Milliman, Decker, Hoffman and Havrilla  
Nays: None

### **Resolution C – Audit Committee Report**

Whereas, the audit committee has reviewed and determined the appropriate scope of the annual audit and has advised the WCIDA board of the need for the audit and its scope; and

Whereas, the committee has advised the board that the services of EFP Rotenberg are necessary and appropriate, be it hereby

Resolved that the WCIDA Board accepts the report of the Audit Committee and hereby authorizes the executive director to enter into the necessary agreements with EFP Rotenberg, LLP at a fee not to exceed \$8,900.00.

Moved: Mr. Decker                                      Second: Mr. Havrilla  
Ayes: Messrs. Decker, Havrilla, Hoffman and Milliman  
Nays: None

### **Resolution D - Rochester Industrial Control, Inc. – Mortgage Subordination**

Whereas, Rochester Industrial Control, Inc. was approved for a \$300,000 Revolving Loan Fund Loan that closed on March 29, 2010 and there is a \$285,000 balance currently outstanding with payments being made as agreed ; and

Whereas, part of the collateral for the loan is a second mortgage on the company's real property; and

Whereas, the company has a commitment from the Canandaigua National Bank to refinance their existing first mortgage from the current outstanding balance of

approximately \$435,000 to a maximum amount of \$750,000 or 80% of the current appraised value of the property; and

Whereas, Canandaigua National Bank is requiring the \$315,000 net proceeds to be re-invested in the company as additional working capital; and

Whereas, the refinance will reduce the company's principal and interest payments by \$44,000 per year; and

Whereas, the commitment to refinance requires the WCIDA to subordinate to the new mortgage amount; be it therefore

Resolved, that WCIDA approves the subordination of our second mortgage to the new Canandaigua National Bank Mortgage.

Moved: Mr. Milliman      Seconded: Mr. Decker  
Ayes: Messrs. Milliman, Decker, Hoffman and Havrilla  
Nays: None

Ms. Churchill briefly discussed the Southeast Quadrant Water Study which is now completed. It is hoped that a resolution to accept the plan will be presented at the next IDA meeting. Copies of the full study are available for review.

Ms. Churchill next discussed the Midland Asphalt project. Justin Miller gave an overview of what has transpired to date with the project. Brian Manktelow, Lyons Town Supervisor, assured the board that the town wants to move the project forward. The problem of there being no commercial assessor in Wayne County was briefly discussed.

The Board went into a brief executive session at 11:00 a.m. to discuss real property negotiations. The regular meeting resumed at 11:02 a.m.

### **Resolution E – BOCES Project**

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, as amended (hereinafter collectively called the "Act"), **WAYNE COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (hereinafter called the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing and commercial facilities as authorized its organizational documents; and

WHEREAS, the **WAYNE ECONOMIC DEVELOPMENT CORPORATION** (hereinafter called the "WEDC") is a not-for-profit local development corporation under Section 1411 of the Not-For-Profit Corporation Law of the State of New York; and

WHEREAS, THE THIRD WAYNE ECONOMIC DEVELOPMENT CORPORATION (hereinafter called the "3<sup>rd</sup> WEDC" or "WEDC") was merged into the WEDC by a Certificate of Merger filed with the New York State Department of State on June 16, 2009; and

WHEREAS, the WEDC is the owner in fee simple of property and improvements consisting of approximately 16.05 acres situate in the southwest quadrant of the intersection of East Maple Avenue and Vienna Street, Village of Newark, County of Wayne and State of New York (the "Original Premises"); and

WHEREAS, the WEDC has leased the Original Premises to **WAYNE-FINGER LAKES BOARD OF COOPERATIVE EDUCATION SERVICES** (the "BOCES") pursuant to a certain Lease Agreement, dated as of June 25, 2004, between the WEDC, the Authority, as defined herein, and the BOCES (the "Original Lease Agreement"), which Original Lease Agreement was recorded in the Office of the Wayne County Clerk on June 24, 2004 as Document No. R9045164; and

WHEREAS, the Original Lease Agreement was amended and modified by a certain Amendment Number One to Lease Agreement, dated as of February 1, 2009 (the "Amendment Number One to Lease Agreement"), by and among the WEDC, Authority and BOCES (collectively the "Lease Agreement"); and

WHEREAS, BOCES has requested the assistance of the WEDC and the Agency with a certain project (the "Project") consisting of: (i) the Agency's acquisition (the "Acquisition") of fee title from the People of the State of New York (the "State"), acting by and through the Dormitory Authority of the State of New York (the "Authority") in an approximately 0.590 acre parcel of land located at Church Street in the Village of Newark, Wayne County, New York (the "Land") and the existing improvements located thereon consisting of an approximately 11,180 square-feet of garage storage space (the "Existing Improvements"), (ii) the WEDC's acquisition of fee title to the Land and Existing Improvements from the Agency (iii) the construction thereon of certain upgrades and renovations to the Existing Improvements for the storage of motor vehicles and equipment and office use (the "Upgrades" and collectively with the Existing Improvements, the "Improvements"), collectively with the Land and the Improvements (the "Garage Addition"); and

WHEREAS, BOCES has requested WEDC amend and modify the Lease Agreement to include the Garage Addition pursuant to a Second Amendment and Modification Agreement (the "Second Amendment and Modification Agreement"); and

WHEREAS, the Authority had an independent appraisal of the Garage Addition completed by Keuka Appraisal Services, Inc. dated February 10, 2010 which listed the fair market value of the property as \$30,800.00 (the "2010 Appraisal"); and

WHEREAS, the Agency adopted the 2010 Appraisal as the "independent appraisal" of the Agency pursuant to Section 2897 of the Public Authorities Law; and

WHEREAS, the Agency previously made a determination that: i) the purpose of the proposed disposition of the Garage Addition by the Agency to the WEDC is within the purpose, mission or governing statute of the Agency pursuant to Section 2897 (7)(ii) of the Public Authorities Law; ii) the Garage Addition may be disposed of by negotiation pursuant to Section 2897 (6)(c)(v) of the Public Authorities Law; and iii) no explanatory statement is required pursuant to Section 2897 (6)(d)(i)(C) of the Public Authorities Law (the "90-Day Notice") because the Garage Addition has an estimated fair market value less than \$100,000.00; and

WHEREAS, by resolution dated August 27, 2010, the Agency adopted a resolution (the "Inducement Resolution") (i) authorizing the Agency to purchase of the Garage Addition from the State; and (ii) authorizing the Agency sell the sale of the Garage Addition, together with any necessary Garage Addition acquisition documents, including any Deeds and other instruments necessary for the Agency to acquire and sell fee title to the Garage Addition (collectively the "Acquisition and Sale Documents"); and

WHEREAS, in connection with authorizing the undertaking of the acquisition of the Garage Addition, the Agency desires to and shall comply with applicable provisions of the State Environmental Quality Review Act, and regulations adopted pursuant thereto as codified at 6 NYCRR Part 617 (collectively, "SEQRA"), and in furtherance of same, the Agency shall determine herein whether the undertaking of the Garage Addition may have a significant effect upon the environment; and

WHEREAS, in furtherance of SEQRA, the Company has prepared and submitted to the Agency an Environmental Assessment Form and related



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There being no further business, the meeting adjourned at 11:07 a.m.

Respectfully submitted,

Marvin Decker  
Secretary