

INITIAL PROJECT RESOLUTION - Minutes 10.27.2017 - Attachment One
(H&N Properties, LLC with Fasteners Direct, Inc. Project)

A regular meeting of the Wayne County Industrial Development Agency was convened on October 27, 2017 at 9:30 a.m.

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

Resolution No. 10/2017 - ___

RESOLUTION OF THE WAYNE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") (i) ACCEPTING THE APPLICATION OF H&N PROPERTIES, LLC (THE "COMPANY") IN CONNECTION WITH A PROPOSED PROJECT (AS FURTHER DESCRIBED HEREIN); (ii) AUTHORIZING THE SCHEDULING AND CONDUCT OF A PUBLIC HEARING; (iii) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT; (iv) AUTHORIZING THE EXECUTION OF CERTAIN AGREEMENTS RELATING TO THE PROJECT; AND (v) AUTHORIZING THE ISSUANCE OF A NOTICE OF DISPOSITION WITH RESPECT TO CERTAIN REAL ESTATE OWNED BY THE AGENCY.

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, 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, H&N PROPERTIES, LLC, for itself and/or a related entity or entity to be formed (collectively, the "Company"), has submitted an application to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of (i) the sale of fee title and retention by the Agency of a leasehold interest in approximately 8.31 acres of real property located at Timothy Lane, Ontario, New York (the "Land", being more particularly described as a portion of tax parcel 61117-00-341810); (ii) the planning, design, and construction of an approximately 50,000 square foot warehouse and office building for lease by the Company to FASTENERS DIRECT, INC. and SKANDACOR DIRECT, INC. for use as a shared wholesale warehouse and office facility, along with site improvements, parking lots, loading docks, access and egress improvements, signage, curbage, sidewalks, and landscaping improvements (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land, the Existing Improvements and the 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, the Agency is contemplating providing financial assistance to the Company with respect to the Project (collectively, the "Financial Assistance") in the form of: (A) an exemption from all State and local sales and use taxes with respect to qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction or equipping of the Facility; (B) mortgage recording tax exemption(s) relating to financings undertaken by the Company in furtherance of the Project, and (C) a partial real property tax abatement through a payment-in-lieu-of-tax agreement (the "PILOT Agreement"), pursuant to which the Company would make payments in lieu of real property taxes to each affected tax jurisdiction (the "Affected Tax Jurisdictions"); and

WHEREAS, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution describing the Project and the financial assistance that the Agency is contemplating with respect to the Project; and

WHEREAS, the Company has offered to purchase fee title to the Land from the Agency (the "Disposition"), and the Agency and Company will memorialize the terms of same within a Land Development Agreement with License and Exclusive Option ("LDA") to be entered into in furtherance of the Project; and

WHEREAS, in furtherance of the Disposition, and in accordance with applicable provisions of the Public Authorities Law ("PAL"), the Agency further contemplates the issuance of a Notice of Disposition to required recipients pursuant to PAL Section 2897(6)(d) (the "Disposition Notice"), such Disposition being exempted from publicly advertising for bids pursuant to PAL Section 2897(6)(c)(v) and obtaining fair market value pursuant to PAL Section 2897(7)(ii); and

WHEREAS, pursuant to and in accordance with Section 859-a of the Act, the Agency desires to schedule and conduct a public hearing relating to the Project and the proposed financial assistance contemplated by the Agency (collectively, the "Financial Assistance"), such Financial Assistance to include (i) mortgage recording tax exemption(s) for secured financings entered into by the Agency and Company in furtherance of the Project, (iii) sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Facility, and (iv) a partial real property tax abatement structured within a PILOT Agreement to be negotiated (the "PILOT Agreement"); and

WHEREAS, the Agency desires to (i) accept the Application, (ii) authorize the scheduling and conduct of a public hearing pursuant to and in accordance with the Act, (iii) authorize the execution of the LDA, and (iv) authorize the issuance of the Disposition Notice containing such terms as set before this meeting.

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

Section 1. Based upon the representations made by the Company to the Agency in the 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) dispose of fee title to and retain a leasehold interest in the Land, Improvements and the Equipment constituting the Facility, (ii) lease or sell the Agency's interest in the Land, Improvements and Equipment constituting the Facility to the Owner pursuant to a lease agreement or sale agreement to be negotiated, and (iii) enter into a Straight Lease Transaction; and

(C) Subject to the terms and conditions set forth within Section 4, hereof, 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 undertake the Project, thereby increasing employment opportunities in the Town of Ontario, and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) The Project will not result in the removal of a facility or plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's Application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other facility or plant to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

Section 2. The proposed financial assistance being contemplated by the Agency includes (i) an exemption from all state and local sales and use taxes with respect to the qualifying personal property included within the Project or used in the acquisition, construction or equipping of the Project; (ii) mortgage recording tax exemption(s) relating to financings undertaken by the Company in furtherance of the Project, and (iii) a partial real property tax abatement through a payment-in-lieu-of-tax agreement (the "PILOT Agreement"), pursuant to which the Company would make payments in lieu of real property taxes to the Affected Tax Jurisdictions.

Section 3. The Agency further authorizes the scheduling and conduct of a public hearing as required by Section 859-a of the Act (the "Public Hearing").

Section 4. The Agency is exempt from publicly advertising for bids and obtaining fair market value for the disposition of the Land pursuant to PAL Section 2897(7)(ii) as it is within the purposes of the Agency to promote, develop, encourage and assist in the acquiring, construing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreational facilities. Pursuant to PAL Section 2897(7)(c), and prior to the Agency disposing of the Land for less than fair market value, the Agency must consider certain information as set forth in PAL Section 2897(7)(b) and make a determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer. In furtherance of the foregoing, and based upon the information contained within the Application and other representations of the Company, the Agency has developed and provided information with respect to the Disposition to the public and to its Board of Directors pursuant to and in accordance with PAL Section 2897(7)(b), as set forth within Exhibit B, hereto (the "Explanatory Statement"). The Agency has taken into consideration the description and purpose of the Disposition, the description of the Land to be transferred, the kind and amount of benefit to the public, the value received compared to the fair market value, its mission and purposes, and the best interests of the Agency with respect to the Project. The Agency hereby determines that there is no reasonable alternative to disposing of the Land in accordance with the terms of the LDA for below-market value that would achieve the purposes of facilitating the advancement of job advancement and economic prosperity within the County of Wayne.

Section 5. The Agency hereby authorizes the undertaking of the Disposition of the Land to the Company in accordance with the terms and conditions set forth within the LDA, along with the terms of the Option, as further defined therein. The Chairman (or Vice Chairman) and/or Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the LDA in substantially the form attached hereto as Exhibit A, with such changes, variations, omissions and insertions as authorized by the Chairman, Vice Chairman and/or Executive Director of the Agency, the execution thereof by the Chairman, Vice Chairman and/or Executive Director of the Agency to constitute conclusive evidence of such approval. The Agency hereby further authorizes the issuance of the Disposition Notice.

Section 6. The Chairman, the Executive Director and/or the Deputy Executive Director of the Agency are hereby authorized and directed to negotiate, but not execute, certain lease agreements, the PILOT Agreement, and related documents to undertake the Straight Lease Transaction. The Agency's authorization of the Project and the Financial Assistance shall be subject to the satisfaction by the Company of certain contingencies contained within the LDA, and the adoption of Agency resolutions relative to same.

Section 7. Harris Beach PLLC, as Transaction Counsel for the Agency, and Converse & Morell, as Agency General Counsel, is hereby authorized to work with counsel to the Company and others to prepare for submission to the Agency all documents necessary to effect the authorization and undertaking of the Project.

Section 8. 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 9. This Resolution shall take effect immediately.

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	
Steven LeRoy	XX			
Robert Havrilla	XX			
Pamela Heald	XX			

The resolutions were thereupon duly adopted.

STATE OF NEW YORK)
COUNTY OF WAYNE) ss:

I, the undersigned Assistant 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 October 27, 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 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 27th day of October, 2017.

Assistant Secretary

[SEAL]

EXHIBIT A
FORM OF LDA

EXHIBIT B

EXPLANATORY STATEMENT

Pursuant to and in accordance with Sections 2897(7)(b) and (c) of the Public Authorities Law (“PAL”), the Wayne County Industrial Development Agency (the “Agency”) has prepared the following information for the Agency board and the public:

TRANSACTION & PURPOSE

H&N PROPERTIES, LLC, for itself and/or a related entity or entity to be formed (collectively, the “Company”), has submitted an application to the Agency requesting the Agency’s assistance with a certain project (the “Project”) consisting of (i) the sale of fee title and retention by the Agency of a leasehold interest in approximately 8.31 acres of real property located at Timothy Lane, Ontario, New York (the “Land”, being more particularly described as a portion of tax parcel 61117-00-341810); (ii) the planning, design, and construction of an approximately 50,000 square foot warehouse and office building for lease by the Company to FASTENERS DIRECT, INC. and SKANDACOR DIRECT, INC. for use as a shared wholesale warehouse and office facility, along with site improvements, parking lots, loading docks, access and egress improvements, signage, curbage, sidewalks, and landscaping improvements (collectively, the “Improvements”); (iii) the acquisition of and installation in and around the Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the “Equipment” and, collectively with, the Land, the Existing Improvements and the 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”).

(1) Description of Asset:

Approximately 8.31 acres of vacant land located in the Town of Ontario, County of Wayne, New York and identified as a portion of tax parcel 61117-00-341810.

(2) Appraisal of the FMV:

Per Appraisal Report dated May 22, 2015, \$244,362.50. Per Assessor estimated dated September 19, 2017, \$130,600.00. Average FMV result is \$187,481.25.

(3) Kind and Amount of Benefit to the Public:

The public would benefit from the proposed project through the creation of job opportunities and the generation of new tax revenues.

(4) Value Received Compared to FMV:

Monetary value to be received by Agency: \$149,580.00

(5) Names of Private Parties to the Transaction and Value Received:

Seller: Wayne County Industrial Development Agency

Value Received by Seller: (i) \$149,580.00, (ii) Job Creation, (iii) New Tax Revenues, and (iv) Spur Additional Development within the Town.

Purchaser: H&N Properties, LLC

Value Received by Purchaser: (i) 8.31 acres of vacant land with a FMV of approximately \$187,481.25.

(6) Names of Private Parties that have made an Offer, the Value of the Offer, and Purpose which the asset would have been used:

None