

RESOLUTION OF THE CITY OF UTICA INDUSTRIAL DEVELOPMENT AGENCY TAKING OFFICIAL ACTION IN CONNECTION WITH A LEASE-LEASEBACK TRANSACTION FOR THE SCHMALZ REALTY LLC FACILITY, APPOINTING SCHMALZ REALTY LLC AND/OR AN ENTITY FORMED OR TO BE FORMED ON ITS BEHALF AS AGENT OF THE AGENCY FOR THE PURPOSE OF ACQUIRING, RENOVATING AND EQUIPPING THE FACILITY, AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT.

WHEREAS, Schmalz Realty LLC, on behalf of itself and/or the principals of Schmalz Realty LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company") has applied to the Agency to enter into a transaction in which the Agency will assist in the acquisition of a 3,408± square foot warehouse building, a two-story office building and warehouse and a gravel paved connecting driveway (collectively, the "Improvements") situated on several parcels of land measuring 0.63± acres in the aggregate located at 1712 Bleecker Street, 1714 Bleecker Street and (no number assigned) Ontario Street, City of Utica, Oneida County, New York (collectively, the "Land"); the partial demolition and renovation of the Improvements; and the acquisition and installation of machinery and equipment in the Improvements (the "Equipment"), all for the purpose of providing commercial and industrial plumbing and HVAC construction and services (the Land, Improvements and Equipment collectively, the "Facility") and the acquisition, renovation and equipping of the Facility is referred to as the "Project"), including, without limitation, the following as they relate to the acquisition, renovation and equipping of such Facility, whether or not any materials or supplies described below are incorporated into or become an integral part of such Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with the acquisition, renovation and equipping, and (ii) purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with the acquisition, renovation and equipping and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs with respect thereto), installed or placed in, upon or under such building; and

WHEREAS, the Company will convey to the Agency a leasehold interest in the Facility; and

WHEREAS, the Facility will be leased to the Company or such other person as may be designated by the Company and agreed upon by the Agency, pursuant to Article 18-A of the General Municipal Law of the State of New York and Chapter 710 of

the Laws of 1981 of the State of New York, as may be amended from time to time (collectively, the "Act"); and

WHEREAS, the Company will further sublease the Facility to Schmalz Mechanical Contractors, Inc. (the "Sublessee") for its operation pursuant to a Sublease Agreement; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Agency has adopted a Business Relocation Assistance Uniform Tax Exemption Policy to provide enhanced financial assistance to help mitigate costs of relocation for businesses that will be impacted by the MVHS Downtown Hospital Project (the "Business Relocation Assistance Policy"); and

WHEREAS, based on representations made by the Company in its Application for Financial Assistance dated June 7, 2019 (the "Application"), the Company's existing facility is located at 529 Oriskany Street West in the City of Utica (the "Existing Facility") which is situated within the footprint of the MVHS Downtown Hospital Project, and the Company received an offer letter from Mohawk Valley Healthcare Systems ("MVHS") and has entered into an agreement to sell the Existing Facility to MVHS in furtherance of the MVHS Downtown Hospital Project; and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from sales and use taxes on materials incorporated into the Facility and abatement of real property tax for a period of ten years, which financial assistance is consistent with the Agency's Business Relocation Assistance Policy, to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein; and

WHEREAS, based upon representations made by the Company in the Application, the value of the Financial Assistance is described as follows:

Sales and use tax exemptions estimated at \$15,500.00 but shall not exceed \$17,050.00 in the aggregate;

Real property tax abatement estimated at \$28,729.00; and

WHEREAS, prior to the closing of a lease-leaseback transaction, and the granting of any financial assistance, a public hearing (the "Hearing") will be held so that

all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency, or the location or nature of the Facility, can be heard; and

WHEREAS, notice of the Hearing will be given prior to the closing of a lease-leaseback transaction, and the granting of any tax benefits, and such notice (together with proof of publication) will be substantially in the form annexed hereto as **Exhibit A**; and

WHEREAS, the minutes of the Hearing are or will be annexed hereto as **Exhibit B**; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the "SEQR Act" or "SEQRA"), the Agency constitutes a "State Agency"; and

WHEREAS, to aid the Agency in determining whether the Facility may have a significant effect upon the environment, the Company has prepared and submitted to the Agency an Environmental Assessment Form and related documents (the "Questionnaire") with respect to the Facility, a copy of which is on file at the office of the Agency; and

WHEREAS, prior to the granting of any tax benefits, the Agency will complete its environmental review and make determinations for purposes of SEQRA; and

WHEREAS, the Agency has given due consideration to the application of the Company and to representations by the Company that the proposed lease-leaseback transaction, is either an inducement to the Company to maintain and expand the Facility in the County or is necessary to maintain the competitive position of the Company in its industry.

NOW, THEREFORE, BE IT RESOLVED by the City of Utica Industrial Development Agency (a majority of the members thereof affirmatively concurring) that:

- Section 1. (a) The acquisition, renovation and equipping of the Facility and the financial assistance thereof by the Agency, through the lease of the Facility to the Company by the Agency pursuant to a lease-leaseback transaction, will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the City of Utica and the people of the State of New York and improve their standard of living, and thereby serve the public purposes of the Act and the same is, therefore, approved;

- (b) It is desirable and in the public interest for the Agency to enter into a lease-leaseback transaction, for the purpose of providing financial assistance for the acquisition, renovation and equipping of the Facility, together with necessary incidental expenses in connection therewith as reflected in the Company's application to the Agency and as amended from time to time prior to the closing of the lease-leaseback transaction.

Section 2. The form and substance of a proposed inducement agreement (in substantially the form presented to this meeting) by and between the Agency and the Company setting forth the undertakings of the Agency and the Company with respect to the closing of the lease-leaseback transaction, and the development of the Facility (the "Agreement") are hereby approved. The Chairman of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, with such changes in terms and form as the Chairman shall approve. The execution thereof by the Chairman shall constitute conclusive evidence of such approval.

Section 3. Subject to the conditions set forth in Section 4.02 of the Agreement, the Agency shall (i) acquire, renovate and equip the Facility, (ii) lease (with an obligation to purchase) or sell the Facility to the Company pursuant to an agreement by and between the Agency and the Company whereby the Company will be obligated, among other things, to make payments to or for the account of the Agency.

Section 4. The Company is herewith and hereby appointed the agent of the Agency to acquire, renovate, equip and complete the Facility. The Company is hereby empowered to delegate its status as agent of the Agency to agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Company may choose in order to acquire, renovate, equip and complete the Facility. The terms and conditions for the appointment of the Company as agent of the Agency for the purposes described in this resolution are set forth in the form of the attached letter addressed to the Company, marked as **Exhibit C** to this resolution. The form of such letter is incorporated herein by reference and is approved and adopted by the Agency, and the Chairman or Executive Director of the Agency or any other duly authorized official of the Agency are authorized to execute and deliver such letter to the Company. The Agency hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Company as agents of the Agency solely for

purposes of making sales or leases of goods, services, and supplies to the Facility, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Company, as agent of the Agency shall be deemed to be on behalf of the Agency and for the benefit of the Facility. The Company shall indemnify the Agency with respect to any transaction of any kind between and among the agents, subagents, contractors, subcontractors, materialmen, vendors and/or suppliers and the Company, as agent of the Agency.

Section 5. The law firm of Bond, Schoeneck & King, PLLC is appointed Transaction Counsel and Agency Counsel in connection with the lease-leaseback transaction.

Section 6. Counsel to the Agency and Transaction Counsel are hereby authorized to work with counsel to the Company and others to prepare, for submission to the Agency, all documents necessary to effect the lease-leaseback transaction.

Section 7. The Chairman of the Agency is hereby authorized and directed (i) to distribute copies of this resolution to the Company, and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 8. This resolution shall take effect immediately.

and 104, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of September 2020.



Jack N. Spaeth, Assistant Secretary