

A regular meeting of Albany County Industrial Development Agency was convened in public session at the offices of the Agency located at 112 State Street in the City of Albany, Albany County, New York on September 4, 2002 at 5:30 o'clock, p.m., local time.

The meeting was called to order by the Chairman and, upon roll being called, the following members of the Agency were:

PRESENT:

Hon. Fowler J. Riddick	Chairman
Hon. Susan M. Burns	Secretary
L. Patrick Bender	Member
Hon. Gene Messercola	Member
Michael Paparian	Member
Theresa M. Ries	Member

ABSENT:

Hon. Gary W. Domalewicz	Treasurer
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THE FOLLOWING PERSONS WERE ALSO PRESENT:

Hon. Allen Maikels	Agency Accountant
William Wolff	Executive Director, LaSalle School
Stephen Grifferty, Esq.	Counsel to LaSalle School
A. Joseph Scott, III, Esq.	Bond Counsel
Timothy T. Hollis, Esq.	Bond Counsel

The following resolution was offered by Gene Messercola, seconded by Susan M. Burns, to wit:

RESOLUTION TAKING PRELIMINARY OFFICIAL ACTION TOWARD THE ISSUANCE OF CIVIC FACILITY REVENUE BONDS IN AN AMOUNT NOT TO EXCEED \$3,500,000 TO FINANCE A CERTAIN CIVIC FACILITY PROJECT FOR THE LASALLE SCHOOL (THE "INSTITUTION") AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PRELIMINARY AGREEMENT WITH THE INSTITUTION WITH RESPECT TO SUCH FINANCING.

WHEREAS, Albany County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 178 of the 1975 Laws of New York, as amended, constituting Section 903-b of said General Municipal Law (said

Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research, recreation and civic facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to issue its civic facility revenue bonds to finance the cost of the acquisition, construction, reconstruction and installation of one or more "projects" (as defined in the Act), to acquire, construct, reconstruct and install said projects or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, the LaSalle School (the "Institution") has presented an application (the "Application") to the Agency, a copy of which was presented at this meeting and copies of which are on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") consisting of: (A) (1) the acquisition of an interest in a parcel of real estate containing approximately 6.13 acres located at 391 Western Avenue in the City of Albany, Albany County, New York (the "Land"), together with the existing buildings described as follows located on the Land: (a) the Tower Building containing approximately 18,200 square feet of space, (b) the Burke Building containing approximately 16,000 square feet of space, and (c) the Administration Building containing approximately 11,100 square feet of space (collectively, the "Facility"), (2) the reconstruction of the Facility, (3) the acquisition and installation therein and thereon of certain machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment being collectively referred to as the "Project Facility"), and (4) the refinancing of certain existing indebtedness incurred by the Institution in connection with the acquisition, construction, reconstruction, renovation and equipping of various portions of the improvements located on the Land, all of the foregoing to constitute a facility to be owned and operated by the Institution as an educational facility and for directly and indirectly related uses; (B) the financing of all or a portion of the costs of the foregoing by the issuance of its civic facility revenue bonds in one or more issues or series in an aggregate principal amount not to exceed \$3,500,000 (the "Bonds"); (C) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including exemption from certain sales taxes, deed transfer taxes, and mortgage recording taxes (collectively with the Bonds, the "Financial Assistance"); and (D) the lease (with an obligation to purchase) or sale of the Project Facility to the Institution or such other person as may be designated by the Institution and agreed upon by the Agency; and

WHEREAS, the Agency has given due consideration to the Application, and to representations by the Institution that (A) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Institution to undertake the Project in Albany County, New York, and (B) the completion of the Project Facility will not result in the

removal of a plant or facility of the Institution or any other proposed occupant of the Project Facility from one area of the State of New York to another area of the State of New York; and

WHEREAS, the Agency desires to encourage the Institution to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of Albany County, New York by undertaking the Project in Albany County, New York; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act"), and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (the "DEC Regulations", and collectively with the "SEQR Act", "SEQRA"), the Agency (or any other "involved agency") (as such quoted phrase is defined in SEQRA) has not yet made a preliminary determination as to the potential environmental significance of the Project and therefore has not yet determined whether an environmental impact statement is required to be prepared with respect to the Project; and

WHEREAS, pursuant to the Act, any approval of the Project contained herein is contingent upon a determination by the members of the Agency to proceed with the Project following satisfaction of (A) all requirements of SEQRA that relate to the Project and (B) the public hearing and notice requirements and other procedural requirements contained in Section 859-a of the Act; and

WHEREAS, interest on the Bonds will not be excludable from gross income for federal income tax purposes unless (A) pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") and the regulations of the United States Treasury Department thereunder (the "Treasury Regulations"), the issuance of the Bonds is approved by the County Executive of Albany County, New York after the Agency has held a public hearing on the nature and location of the Project Facility and the issuance of the Bonds; and (B) pursuant to Section 145(a) of the Code, all property which is to be provided by the net proceeds of the Bonds is to be owned by a Section 501(c)(3) organization or a governmental unit and at least ninety-five percent (95%) of the net proceeds of the Bonds are used with respect to (a) governmental units and/or (b) the activities of Section 501(c)(3) organizations which do not constitute "unrelated trades or businesses" (as defined in Section 513(a) of the Code) with respect to such Section 501(c)(3) organizations; and

WHEREAS, although the resolution authorizing the issuance of the Bonds has not yet been drafted for approval by the Agency, a preliminary agreement (the "Preliminary Agreement") relative to the proposed issuance of the Bonds by the Agency has been presented for approval by the Agency;

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

Section 1. The Agency has reviewed the Application and, based upon the representations made by the Institution to the Agency in the Application and at this meeting, the Agency hereby makes the following findings and determinations with respect to the Project:

(A) The Project constitutes a "project" within the meaning of the Act; and

(B) The completion of the Project Facility will not result in the removal of a plant or facility of the Institution or any other proposed occupant of the Project Facility from one area of the State of New York to another area of the State of New York and will not result in the abandonment of one or more plants or facilities of the Institution or any other proposed occupant of the Project Facility located in the State of New York; and

(C) Although the Project may constitute a project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost, the Project will be operated by a not-for-profit corporation and therefore is not prohibited pursuant to Section 862(2) of the Act; and

(D) The provision of the Financial Assistance by the Agency with respect to the Project, through the issuance of the Bonds and the granting of certain exemptions from taxation with respect to the Project (the "Exemptions"), as further described in Section 2(E) of this Resolution, will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of Albany County, New York and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act; and

(E) It is desirable and in the public interest to issue the Bonds in a principal amount sufficient to pay the cost of undertaking the Project, together with necessary incidental expenses in connection therewith (collectively, the "Project Costs"), which Project Costs are presently estimated to aggregate at least \$3,500,000,

provided, however, that the foregoing determinations shall not entitle or permit the Institution to commence the Project unless and until the Agency shall determine that all requirements of SEQRA that relate to the Project and to the issuance of the Bonds have been fulfilled.

Section 2. If, following full compliance with SEQRA and the requirements of the Act, including the public hearing requirements set forth in Section 859-a of the Act and a substantive review of the Project, including the information obtained at, or derived from, the public hearing, the Agency adopts a future resolution (the "Future Resolution") determining to proceed with the Project and to grant the Financial Assistance with respect thereto and the Institution complies with all conditions set forth in this Resolution, the Preliminary Agreement and the Future Resolution, the Agency will (A) authorize the issuance of the Bonds in such principal amount and with such maturities, interest rate or rates, redemption terms and other terms and provisions as shall be determined by a further resolution of the Agency; (B) undertake the Project, or cause the Project to be undertaken; (C) lease (with the obligation to purchase) or sell the Project Facility to the Institution pursuant to a lease agreement or an installment sale agreement (hereinafter, the "Repayment Agreement") between the Agency and the Institution whereby the Institution will be obligated, among other things, to make payments to the Agency in amounts and at times so that such payments will be adequate to pay the principal of, premium, if any, and interest on the Bonds; (D) secure the Bonds in such manner as the Agency, the Institution and the

purchasers of the Bonds shall mutually deem appropriate; and (E) provide certain exemptions from taxation with respect to the Project, including (1) exemption from mortgage recording taxes with respect to any documents recorded by the Agency with respect to the Project in the office of the County Clerk of Albany County, New York or elsewhere, (2) exemption from sales taxes relating to the Project, and (3) exemption from deed transfer taxes on real estate transfers to and from the Agency with respect to the Project, all as contemplated by the Preliminary Agreement and the Future Resolution. If the proceeds from the sale of the Bonds are insufficient to finance the entire cost of undertaking the Project, the Agency will, upon request of the Institution and subject to the provisions of the Preliminary Agreement and Section 3 hereof, use its best efforts to effect the issuance from time to time in the future of additional bonds, whether on a parity with the Bonds or otherwise, for the purpose of paying the cost of completing the Project.

Section 3. The issuance of the Bonds and any additional bonds, as contemplated by Section 2 of this Resolution, and the granting of any other Financial Assistance with respect to the Project by the Agency, shall be subject to: (A) the determination by the Agency to proceed with the Project following a determination by the Agency that all requirements of SEQRA that relate to the Project have been fulfilled; (B) execution and delivery by the Institution of the Preliminary Agreement, which sets forth certain conditions for the issuance of the Bonds, and the granting of any other Financial Assistance with respect to the Project, and satisfaction by the Institution of all the terms and conditions of the Preliminary Agreement applicable to the Institution; (C) agreement by the Agency, the Institution and the purchasers of the Bonds on mutually acceptable terms for the Bonds and for the sale and delivery thereof and mutually acceptable terms and conditions for the security for the payment thereof; (D) agreement between the Institution and the Agency, as to payment by the Institution of payments in lieu of taxes with respect to the Project Facility, if applicable, together with the administrative fee of the Agency with respect to the Project; (E) if interest on the Bonds is to be treated as excludable from gross income for federal income tax purposes, (1) pursuant to Section 145(a) of the Code, the property which is to be provided by the net proceeds of the Bonds is to be owned by a Section 501(c)(3) organization or a governmental unit and at least ninety-five percent (95%) of the net proceeds of the Bonds are used with respect to (a) governmental units and/or (b) the activities of Section 501(c)(3) organizations which do not constitute "unrelated trades or businesses" (as defined in Section 513(a) of the Code), and (2) the County Executive of Albany County, New York must have approved the issuance of the Bonds after a public hearing on the issuance of the Bonds and the nature and location of the Project Facility has been held by the Agency, as required by Section 147(f) of the Code; (F) all property which is to be provided by the proceeds of the Bonds shall satisfy the requirements contained in Section 854(13) of the General Municipal Law, it being expressly understood and agreed by the Agency and the Institution that any portions of the Project Facility not satisfying the requirements of Section 854(13) of the General Municipal Law shall be financed from sources other than the proceeds of the Bonds; (G) a determination by the members of the Agency to proceed with the issuance of the Bonds and the granting of any other Financial Assistance with respect to the Project following a determination by the members of the Agency that (1) all requirements of SEQRA that relate to the Project have been fulfilled and (2) the public hearing and notice requirements and other procedural requirements of Section 859-a of the Act have been complied with; (H) agreement between the Institution and the Agency, if applicable, as to payment by the Institution of any bond issuance charges payable pursuant to Section 2976 of the Public Authorities Law; and (I) the following additional condition(s):

Section 4. The form, terms and substance of the Preliminary Agreement (in substantially the form presented to this meeting and attached hereto) are in all respects approved, and the Chairman of the Agency is hereby authorized, empowered and directed to execute and deliver said Preliminary Agreement in the name and on behalf of the Agency, said Preliminary Agreement to be substantially in the form presented to this meeting, with such changes therein as shall be approved by the officer executing same on behalf of the Agency, the execution thereof by such officer to constitute conclusive evidence of such officer's approval of any and all changes or revisions therein from the form now before this meeting.

Section 5. From and after the execution and delivery of the Preliminary Agreement, the officers, agents and employees of the Agency are hereby authorized, empowered and directed to proceed with the undertakings provided for therein on the part of the Agency and are further authorized to do all such acts and things and to execute all such documents as may be necessary or convenient to carry out and comply with the terms and provisions of the Preliminary Agreement as executed.

Section 6. It is intended that this Resolution shall constitute an affirmative official action toward the issuance of the Bonds within the meaning of Section 1.103-8(a)(5) and Section 1.150-2(e)(1) of the United States Treasury regulations.

Section 7. The Institution is hereby authorized to conduct such environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary or convenient to enable the Agency to make its final determination whether to approve the Project, and the Institution is further authorized to advance such funds as may be necessary for such purpose, subject, to the extent permitted by law, to reimbursement from the proceeds of the sale of the Bonds, if the Bonds are issued; provided, however, that such authorization shall not entitle or permit the Institution to commence the Project unless and until the Agency shall determine to proceed with the Project following a determination by the Agency that all requirements of SEQRA that relate to the Project and to the issuance of the Bonds have been fulfilled. The officers, agents and employees of the Agency are hereby directed to proceed to comply with the provisions of SEQRA and to do such things or perform such acts as may allow the Agency to proceed to its final consideration of the Project. This Resolution constitutes a determination of compliance with technical requirements within the meaning of Section 617.3(c)(2) of the DEC Regulations and does not constitute, and shall not be deemed to constitute, either an approval by the Agency of the Project for the purposes of SEQRA or a commitment by the Agency to issue the Bonds or to grant any other Financial Assistance with respect to the Project except upon satisfaction of the requirements of SEQRA, the requirements set forth in Section 3 hereof and the requirements set forth in the Preliminary Agreement.

Section 8. The law firm of Hodgson Russ LLP of Albany, New York is hereby appointed Bond Counsel to the Agency with respect to all matters in connection with the Project and the issuance of the Bonds. Bond Counsel for the Agency is hereby authorized, at the expense of the Institution, to work with the Institution, the purchasers of the Bonds and others to prepare, for submission to the Agency, all documents necessary to effect the authorization, issuance, sale and delivery of the Bonds.

Section 9. The Agency hereby authorizes the Chairman of the Agency, prior to the issuance of any portion of the Bonds or the granting of any other Financial Assistance with respect to the Project, after consultation with the members of the Agency, Agency Counsel and Bond Counsel, (A) to establish the time, date and place for a public hearing of the Agency to hear all persons interested in the location and nature of the Project Facility, the proposed Financial Assistance being contemplated by the Agency with respect to the Project and the proposed plan of financing the Project by the issuance of the Bonds, said public hearing to be held in the city, town or village where the Project will be located; (B) to cause notice of such public hearing to be given to the public by publishing a notice of such hearing in a newspaper of general circulation available to residents of Albany County, New York, such notice to comply with the requirements of Section 859-a of the Act and Section 147(f) of the Code and to be published no fewer than thirty (30) days prior to the date established for such public hearing; (C) to cause notice of said public hearing to be given to the chief executive officer of the county and each city, town, village and school district in which the Project is to be located no fewer than thirty (30) days prior to the date established for said public hearing; (D) to conduct such public hearing; (E) to cause a report of said public hearing fairly summarizing the views presented at said public hearing to be promptly prepared and cause copies of said report to be made available to the members of the Agency and to the County Executive of Albany County, New York; and (F) to request Albany County, New York, through its elected County Executive, to approve the issuance of the Bonds.

Section 10. The Chairman of the Agency and/or Agency Counsel is hereby authorized and directed to distribute copies of this Resolution to the Institution and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 11. 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:

Hon. Fowler J. Riddick	VOTING <u>YES</u>
Hon. Susan M. Burns	VOTING <u>YES</u>
L. Patrick Bender	VOTING <u>YES</u>
Hon. Gary W. Domalewicz	VOTING <u>ABSENT</u>
Hon. Gene Messercola	VOTING <u>YES</u>
Michael Paparian	VOTING <u>YES</u>
Theresa M. Ries	VOTING <u>YES</u>

The foregoing Resolution was thereupon declared duly adopted.

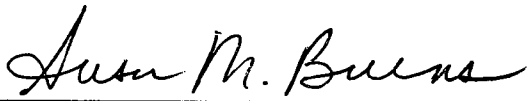
STATE OF NEW YORK     )  
                                  ) SS:  
COUNTY OF ALBANY     )

I, the undersigned (Assistant) Secretary of the Albany County Industrial Development Agency (the "Agency"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on September 4, 2002 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of the whole of such proceedings of the Agency and of such Resolution set forth therein so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respect duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) 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 rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 4<sup>th</sup> day of September, 2002.

  
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(Assistant) Secretary

(SEAL)