

**INDUCEMENT RESOLUTION**  
*(Specialty Retailers, Inc.)*

A regular meeting of the City of Hornell Industrial Development Agency was convened on March 14, 2013.

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

Resolution No. 03/2013-02

RESOLUTION AUTHORIZING THE CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY TO (i) APPOINT SPECIALTY RETAILERS, INC. (THE "COMPANY") AS ITS AGENT FOR THE PURPOSE OF UNDERTAKING A CERTAIN PROJECT AS MORE FULLY DESCRIBED BELOW; (ii) PROVIDE THE COMPANY WITH A PARTIAL ABATEMENT FROM REAL PROPERTY TAXES WITH RESPECT TO THE PROJECT, AN EXEMPTION FROM THE NEW YORK STATE MORTGAGE RECORDING TAX AND A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE PROJECT; AND (iii) EXECUTE A LEASE AGREEMENT, LEASEBACK AGREEMENT, PILOT AGREEMENT AND 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 670 of the Laws of 1974 of the State of New York, as amended (hereinafter collectively called the "Act"), the **CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY** (hereinafter called "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 by the Act; and

WHEREAS, **SPECIALTY RETAILERS, INC.** (for itself, an affiliate or an entity to be formed) (the "Company") has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition of a leasehold or other interest in a certain parcel of land located at 33 Broadway Mall, Hornell, New York (the "Land") and the existing approximately 25,748 square-foot vacant building located thereon (the "Existing Improvements"); (ii) the renovation, reconstruction, and upgrading of the Existing Improvements to accommodate retail space for the current tenant Peebles Department Store (the "Improvements"); and (iii) the acquisition in and around the Existing Improvements and the Improvements of certain items of equipment, machinery and other personal property (the "Equipment" and, together with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, pursuant to Article 18-A of the General Municipal Law 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, it is contemplated that the Agency will (i) designate the Company as its agent for the purpose of undertaking the Project pursuant to an agent agreement (the "Agent Agreement"), (ii) negotiate and enter into a lease agreement (the "Lease Agreement"), leaseback agreement (the "Leaseback Agreement") and payment-in-lieu-of-tax agreement (the "PILOT Agreement") with the Company, (iii) take a leasehold interest in the Land, Improvements, Existing Improvements, Equipment and personal property constituting the Facility (once the Lease Agreement, Leaseback Agreement and PILOT Agreement have been negotiated), and (iv) provide financial assistance to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Project, (b) a partial real property tax abatement through the PILOT Agreement, and (c) a mortgage recording tax exemption for the financing related to the Project; and

WHEREAS, the Project involves a "Type II Action" as said term is defined in Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, "SEQR") and therefore no further action is required to be undertaken by the Agency under SEQR; and

WHEREAS, the financial assistance provided to the Company by the Agency shall not exceed \$100,000 and therefore a public hearing is not required to be held.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE CITY OF HORNELL 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 appoint the Company as its agent for purposes of undertaking the Project; 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 the City of Hornell 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 civic, commercial, industrial, or manufacturing 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 plant or facility 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

(F) The Project involves a "Type II Action" as said term is defined in Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, "SEQR") and therefore no further action is required to be undertaken by the Agency under SEQR.

Section 2. Subject to the Company executing the Lease Agreement and 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 undertaking of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to undertake 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 3. The Financial Assistance shall not exceed \$100,000 and therefore a public hearing is not required to be held by the Agency under the Act.

Section 4. The Chairman, Vice Chairman and/or Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to negotiate, 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, and (C) the PILOT Agreement; 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; and (ii) the terms of the PILOT Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 5. 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 6. These Resolutions 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:

|                | <i>Yea</i> | <i>Nay</i> | <i>Absent</i> | <i>Abstain</i> |
|----------------|------------|------------|---------------|----------------|
| Samuel Nasca   | [ x ]      | [ ]        | [ ]           | [ ]            |
| George Prete   | [ x ]      | [ ]        | [ ]           | [ ]            |
| Shawn Hogan    | [ x ]      | [ ]        | [ ]           | [ ]            |
| Joseph Foreman | [ x ]      | [ ]        | [ ]           | [ ]            |
| David Parmley  | [ x ]      | [ ]        | [ ]           | [ ]            |

The Resolutions were thereupon duly adopted.

**SECRETARY'S CERTIFICATION**

STATE OF NEW YORK                    )  
COUNTY OF STEUBEN                ) ss.:

I, the undersigned, Joseph Foreman, Secretary of the City of Hornell Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the City of Hornell Industrial Development Agency (the "Agency"), including the resolution contained therein, held on March 14, 2013, 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 related 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 such 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 affixed the seal of said Agency this 14<sup>th</sup> day of March, 2014.

*Joseph D. Foreman*

