

**RESOLUTION ISSUING FINDINGS AND DECISION ON APPLICATION  
FOR FINANCIAL ASSISTANCE  
2-4 KIEFFER LANE LLC PROJECT**

A regular meeting of Ulster County Industrial Development Agency (the "Agency") was convened in public session at the Karen Binder Library, 6<sup>th</sup> Floor, Ulster County Office Building, 244 Fair Street, Kingston, New York on August 9, 2017 at 8:00 a.m., local time.

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

**PRESENT:**

John Morrow	Chairman
Randall Leverette	Acting Vice-Chairman and Treasurer
James Malcolm	Assistant Treasurer
Robert Kinnin	Secretary
Michael Bernholz	Member

**ABSENT:**

John Livermore	Assistant Secretary
----------------	---------------------

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Suzanne Holt	Director, Office of Economic Development
Christopher J. Rioux	Chief Financial Officer
Evelyn Heinbach	Office of Economic Development
Bernadette Andreassen	Office of Economic Development
A. Joseph Scott, III, Esq.	Agency Counsel

The following resolution was offered by James Malcolm, seconded by Robert Kinnin, to wit:

Resolution No. 0817-\_\_\_\_

**RESOLUTION ISSUING FINDINGS AND DECISION ON APPLICATION FOR FINANCIAL ASSISTANCE FOR A PROJECT FOR 2-4 KIEFFER LANE LLC (THE "COMPANY").**

WHEREAS, Ulster County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws 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 787 of the 1976 Laws of New York, as amended, constituting Section 923 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 commercial, manufacturing and industrial 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 acquire, construct and install one or more “projects” (as defined in the Act) or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, in April, 2017, 2-4 Kieffer Lane LLC, a New York limited liability company (the “Company”) presented an application (the “Original Application”) to the Agency, a copy of which Application is on file at the office of the Agency and included in the administrative record, which Application requested that the Agency consider undertaking a project (the “Original Project”) for the benefit of the Company, said Project consisting of the following: (A) the acquisition and installation of certain machinery, equipment, cranes and related construction equipment and other personal property (collectively, the “Original Equipment”) to be located in and adjacent to an approximately 38,000 square foot building (the “Original Facility”) located on an approximately 4.20 acre parcel of land located at 2-4 Kieffer Lane (Tax Map #48.66-2-2.100) in the Town of Ulster, Ulster County, New York (the “Original Land”), said Facility to be used as a maintenance and storage facility of tower and mobile cranes (the Original Land, the Original Facility and the Original Equipment being collectively referred to as the “Original Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes (for convenience, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Original Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on April 12, 2017 (the “First Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Original Project; and

WHEREAS, pursuant to the authorization contained in the First Public Hearing Resolution, the Chairman of the Agency (A) caused notice of a public hearing of the Agency pursuant to Section 859-a of the Act (the “First Public Hearing”) to hear all persons interested in the Original Project and the Financial Assistance being contemplated by the Agency with respect to the Original Project, to be mailed on April 14, 2017 to the chief executive officers of the county and of each city, town, village and school district in which the Original Project is to be located, (B) caused notice of the First Public Hearing to be posted on April 18, 2017 on a public bulletin board located at the Town of Ulster Town Hall, located at 1 Town Hall Drive, Lake Katrine, in the Town of Ulster, Ulster County, New York and on the Agency’s website on April 19, 2017, (C) caused notice of the First Public Hearing to be published on April 20, 2017 in The Shawangunk Journal, a newspaper of general circulation available to the residents of Town of Ulster, Ulster County, New York, (D) caused notice of the First Public Hearing to be published on April 20, 2017 in the Almanac Weekly, a newspaper of general circulation available to the residents of Town of Ulster, Ulster County, New York, (E) conducted the First Public Hearing on May 4, 2017 at 7:00 o’clock, p.m., local time at the Town of Ulster Senior Center located at 1 Town Hall Drive, Lake Katrine in the Town of Ulster, Ulster County, New York, and (F) prepared a report of the First Public Hearing (the “First Public Hearing Report”) fairly summarizing the views presented at such First Public Hearing and caused copies of said First Public Hearing Report to be made available to the members of the Agency; and

WHEREAS, subsequently, the Company submitted an amended application dated May 24, 2017 (the “Amended Application”) which amends Original Application and the Original Project to eliminate certain mobile cranes from the Original Project and to substitute in their place certain tower cranes (the Original Application, as amended, hereinafter referred to as the “Application”); and

WHEREAS, the project (the "Project") is now described as the following: (A) the acquisition and installation of certain machinery, equipment, cranes, including tower cranes, and related construction equipment and other personal property (collectively, the "Equipment") to be located in and adjacent to an approximately 38,000 square foot building (the "Facility") located on an approximately 4.20 acre parcel of land located at 2-4 Kieffer Lane (Tax Map #48.66-2-2.100) in the Town of Ulster, Ulster County, New York (the "Land"), said Facility to be used as a maintenance and storage facility of tower and mobile cranes (the Land, the Facility and the Equipment being collectively referred to as the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes (the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on June 14, 2017 (the "Second Public Hearing Resolution"), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Second Public Hearing Resolution, the Chairman of the Agency (A) caused notice of a public hearing of the Agency pursuant to Section 859-a of the Act (the "Second Public Hearing") to hear all persons interested in the Project and the Financial Assistance being contemplated by the Agency with respect to the Project, to be mailed on June 27, 2017 to the chief executive officers of the county and of each city, town, village and school district in which the Project is to be located, (B) caused notice of the Second Public Hearing to be posted on June 27, 2017 on a public bulletin board located at the Town of Ulster Town Hall, located at 1 Town Hall Drive, Lake Katrine, in the Town of Ulster, Ulster County, New York and on the Agency's website on June 27, 2017, (C) caused notice of the Second Public Hearing to be published on June 29, 2017 in The Shawangunk Journal, a newspaper of general circulation available to the residents of Town of Ulster, Ulster County, New York, (D) caused notice of the Second Public Hearing to be published on June 29, 2017 in the Almanac Weekly, a newspaper of general circulation available to the residents of Town of Ulster, Ulster County, New York, (E) conducted the Second Public Hearing on June 10, 2017 at 7:00 o'clock, p.m., local time at the Town of Ulster Town Hall located at 1 Town Hall Drive, Lake Katrine in the Town of Ulster, Ulster County, New York, and (F) prepared a report of the Second Public Hearing (the "Second Public Hearing Report," and, together with the First Public Hearing Report, the "Public Hearing Reports") fairly summarizing the views presented at such Second Public Hearing and caused copies of said Second Public Hearing Report to be made available to the members of the Agency; and

WHEREAS, the Agency has given due consideration to the Application, to representations by the Company regarding the undertaking of the Project, and to the public record compiled by the Agency in connection with its review and consideration of the Project (the "Public Record"); and

WHEREAS, the Agency must determine whether, in its judgment, the undertaking of the Project warrants the requested financial assistance, including evaluating whether the Project will preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of Ulster County, New York;

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

Section 1. All action taken by the Director, Office of Economic Development of the Agency, and Agency Counsel with respect to the Project is hereby ratified and confirmed.

Section 2. The Agency hereby denies the Application for financial assistance and issues the following findings and determinations:

(A) The Agency has reviewed the Application and the Public Record, including the Public Hearing Reports and has fully considered all materials and comments therein.

(B) In Section 862 of the Act, the Agency is generally prohibited from granting any “financial assistance” to a Project that constitutes a “retail” project under the Act. In the Application, the Company has represented to the Agency that the project is indeed a “retail” project. There are, however, limited exceptions to the general prohibition contained in Section 862 of the Act and are commonly known as the following: (a) the tourist destination exception, (b) the “highly distressed area” exception, and (c) the providing “a good or service not otherwise reasonably accessible” exception. While the Company has represented in the Application that the Project is a “retail” project, it contends that it qualifies for an exception as a project providing “a good or service not otherwise reasonably accessible.” The Agency has reviewed the Public Record, including the comments received at the Public Hearings, and the Agency finds as follows: The tower cranes are not sufficiently “unique” or different from the cranes provided by an existing crane company located in Ulster County in order to satisfy the exception. Thus, the proposed good or service cannot be said to be “not otherwise reasonably accessible.” Further, the Agency noted that there is little or no need for tower cranes in Ulster County. The Agency thus determines that the Project, being a retail project, does not qualify for one of the limited exceptions and the Agency lacks the legal authority to approve financial assistance.

(C) Pursuant to the Act, the Agency has developed a uniform set of criteria for evaluating applications for financial assistance. The Agency has applied those criteria to the Application and the information in the Public Record and hereby finds and determines that the Application does not warrant financial assistance for the following reasons:

Description of Benefit		Applicable to Project (indicate Yes or NO)		Expected Benefit
1.	Retention of existing jobs	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	The Project is a new development and there are no existing jobs at the Project site relating to the Project.
2.	Creation of new permanent jobs	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<p>The Company has represented in the Application that approximately (a) 18 full time equivalent new full time jobs will be created within the first year of the completion of the Project.</p> <p>Based on the review of the Public Record and the comments received at the Public Hearings, the Agency is not persuaded that the jobs to be created will be resident and sited in Ulster County, and therefore actually benefit Ulster County.</p> <p>Therefore, there will be little or</p>

				no benefit to Ulster County.
3.	Estimated value of tax exemptions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Approximately \$975,000 of NYS sales and compensating use tax exemptions.
4.	Private sector investment	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<p>The Company has represented in the Application that it intends to expend \$10,927,833.44 at the Project Facility within 1 year of the date hereof.</p> <p>Based on the review of the Public Record and the comments received at the Public Hearings, the Agency is not persuaded that the Project Facility will be sited in Ulster County.</p> <p>Therefore, there will be little or no benefit to Ulster County.</p>
5.	Likelihood of project being accomplished in a timely fashion	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	High likelihood of project being completed in a timely manner.
6.	Extent of new revenue provided to local taxing jurisdictions	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<p>Because the Agency is not persuaded that the potential new employment will be located in Ulster County, the Agency does not believe that any significant new tax revenue will be generated by the undertaking of the Project.</p> <p>Therefore, there will be little or no benefit to Ulster County.</p> <p>Further, the Agency is concerned about the possible precedent for this Project with similar other heavy machine companies seeking to locate in Ulster County for the purpose of avoiding NYS sales and use taxes.</p>
7.	Any additional public benefits	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Based on the Agency's review of the Public Record, the Agency is concerned about the potential impacts of the Project on a long-time local heavy machinery/construction company located in Ulster County.
8.	Local labor construction jobs	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	No construction jobs created by the Project.

9.	Regional wealth creation (% of sales/customers outside of the County)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Based on the Agency's review of the Public Record, the Project does not appear to attract customers/clients from outside of Ulster County into Ulster County.  Therefore, there will be little or no benefit to Ulster County.
10.	Located in a highly distressed census tract	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Not applicable.
11.	Alignment with local planning and development efforts	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Not applicable.
12.	Promotes walkable community areas	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Not applicable.
13.	Elimination or reduction of blight	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Not applicable.
14.	Proximity/support of regional tourism attractions/facilities	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Not applicable.
15.	Local or County official support	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Not applicable.
16.	Building or site has historic designation	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Not applicable.
17.	Provides brownfield remediation	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Not applicable.

(D) The Agency further notes that the Agency's Uniform Tax Exemption Policy (the "Policy"), and in particular, the provisions contained in Section 4 of the Policy, is designed to provide assistance to "projects" that consist of personal property and real estate. The granting of assistance to "projects" that consist solely of moveable pieces of equipment, particularly equipment that may not be sited in Ulster County, is not consistent with the mission and purpose of the Agency.

Section 3. In consequence of the foregoing, the Agency hereby determines not to: (A) grant the Financial Assistance requested by the Company with respect to the Project, or (B) move forward with undertaking the Project.

Section 4. 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 or provided for by the provisions of this Resolution, and to execute and deliver all such additional 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 this Resolution.

Section 5. 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:

John Morrow	VOTING	<u>YES</u>
Randall Leverette	VOTING	<u>YES</u>
James Malcolm	VOTING	<u>YES</u>
Robert Kinnin	VOTING	<u>YES</u>
John Livermore	VOTING	<u>ABSENT</u>
Michael Bernholz	VOTING	<u>YES</u>

The foregoing Resolution was thereupon declared duly adopted.

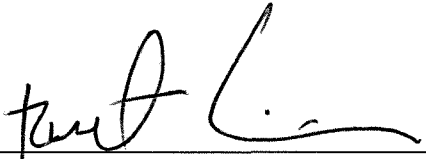
STATE OF NEW YORK            )  
                                          ) SS.:  
COUNTY OF ULSTER            )

I, the undersigned (Assistant) Secretary of Ulster County Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on August 9, 2017 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original 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 respects 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 9<sup>th</sup> day of August, 2017.

  
\_\_\_\_\_  
(Assistant) Secretary

(SEAL)