

QUAKERTOWN AREA INDUSTRIAL & COMMERCIAL DEVELOPMENT AUTHORITY
October 27, 2014

The Quakertown Area Industrial & Commercial Development Authority met on Monday, October 27, 2014, 7:25 p.m.

The following officers and board members were present: Chairman L. James Roberts, Vice Chairman Donald Rosenberger, Secretary David Erwin, Lisa Gaier, Michael Johnson, Douglas Propst, Daniel Williams, Solicitor Charles Fonzone and Executive Director Scott C. McElree.

RESOLVED, That, the Minutes of September 3, 2014 be approved as written. Motion of Board Member Rosenberger, seconded by Board Member Erwin. A roll call vote was taken and the motion was unanimously carried.

RESOLVED, That, the following final Resolution IDA 10-14, a request by Telex Metals, LLC for funds not to exceed \$900,000 for a project to be located at 105 Phyllis Drive, Croydon, Bristol Township, Bucks County, be adopted:

RESOLUTION IDA 10-14

WHEREAS, the Authority is a public instrumentality of the Commonwealth of Pennsylvania (the "Commonwealth") and a body public, corporate and politic created under the Pennsylvania Economic Development Financing Law, 73 P.S. §371, *et seq.*, as amended and supplemented (the "Act"); and

WHEREAS, the Authority exists and operates for, among other things, the public purposes of alleviating unemployment, maintaining employment at a high level, eliminating and preventing blight, and creating and developing business opportunities by the construction, improvement, rehabilitation, revitalization and financing of industrial, commercial and manufacturing enterprises; and

WHEREAS, MDJG, LP, a Pennsylvania limited partnership (the "Borrower"), has requested this Authority to participate in the financing of the costs of a project consisting of: (1) the acquisition and renovation of an 18,225 square feet manufacturing facility (the "Facility") located on approximately 1.2 acres located at 105 Phyllis Drive, Croydon, Bristol Township, Pennsylvania, to be used by Telex Metals, LLC, a Pennsylvania limited liability company and an affiliate of Borrower, in manufacturing specialty metals products; (2) the reimbursement or refinancing of costs and expenses previously incurred in connection with the acquisition or renovation of the Facility; and (3) the payment of the costs and expenses of the financing (referred to herein collectively as the "Project"); and

WHEREAS, the Borrower proposes that the Authority provide such financing from the proceeds of a revenue note (the "Authority Note") to be authorized, issued, sold and delivered by the Authority in accordance with the Act; and

WHEREAS, First Niagara Bank, N.A. (the "Bank") has provided to the Borrower a commitment letter providing for financing for the Project (the "Commitment"); and

WHEREAS, the Commitment contemplates that the Authority Note will be sold to the Bank; and

WHEREAS, this Authority is willing to provide financing for the Project by issuance of the Authority Note upon the terms and conditions set forth in the Commitment, and upon such further terms and conditions as shall be mutually acceptable to the Authority, the Borrower, and the Bank; and

WHEREAS, the Act requires that this Authority obtain the approval of the Secretary of the Pennsylvania Department of Community and Economic Development (the "Department") before it sells and issues the Authority Note, and this Authority desires to obtain such approval of the Department; and

WHEREAS, an application will be filed for state volume cap allocation so that the Authority Note may be issued as a "qualified small issue bond" within the meaning of Section 144(a) of the Internal Revenue Code of 1986, as amended (the "Code") to be sold as an obligation the interest on which is excludible from the gross income of the Bank for federal income tax purposes; and

WHEREAS, Section 147(f) of the Code requires that this Authority secure approval to finance any portion of the Project on a tax-exempt basis from the applicable governmental unit, following a public hearing duly advertised and held in accordance with the requirements of Section 147(f) of the Code, as a condition precedent to the issuance of the Authority Note as a tax exempt obligation; and

WHEREAS, the Borrower has paid, or may pay, certain costs of the Project with its own funds prior to the date of issuance of the Authority Note, and desires that the Authority reimburse it for such costs out of the proceeds of the Authority Note, to the extent permitted under the Code, and the Authority desires to express its official intent to make such reimbursement; and

WHEREAS, after inquiry and based upon representations of the Borrower, the Authority has determined that the financing of the Project through the issuance of the Authority Note will serve the public purposes of the Act by reducing interest costs and thus assisting in the creation and preservation of employment and providing financing for a manufacturing facility within the Commonwealth; and

WHEREAS, the Authority desires to take all action necessary to authorize the financing of costs of the Project and the issuance of the Authority Note, subject to receiving all required approvals.

NOW, THEREFORE, BE IT RESOLVED, by the Board of the Authority, as follows:

1. The Authority's application to the Department for approval to finance the Project by issuance of the Authority Note in the aggregate principal amount not to exceed \$900,000 is hereby authorized. Such application and any additions, amendments or supplements thereto shall be made in such form as shall be prescribed by the Department and shall contain such information regarding the Borrower and the Project and its financing as shall be provided by the Borrower and the Bank. The Chairman, the Vice Chairman, the Secretary and the Assistant Secretary of this Authority are each authorized to sign such application in the name of this Authority.
2. The public hearing held in accordance with the requirements of the Code regarding the Project and the issuance of the Authority Note is hereby authorized and confirmed.

3. Subject to approval to issue the Authority Note being received from the Department as required by the Act, this Authority shall finance a portion of the costs of the Project by issuing and selling the Authority Note and making a loan of the proceeds of sale of the Authority Note to the Borrower, all upon such terms and conditions as are mutually satisfactory to the Authority and its Solicitor, Bond Counsel, the Borrower and the Bank. The Authority Note shall bear interest at such rate or rates and shall have the interest payment dates, maturity date or dates, redemption provisions and other terms and provisions as are described in the Commitment or as shall otherwise be acceptable to the Borrower and not inconsistent with the Act.

4. Subject to the further conditions of (1) receipt of volume cap allocation for the Authority Note, as required by Section 146 of the Code, and (2) appropriate representations, covenants and warranties being made by the Borrower in the Loan Documents (as defined below) to qualify the Authority Note, and to maintain the qualification of the Authority Note, as tax-exempt obligations under Section 103 and Section 144(a) of the Code, the Authority Note shall be issued by the Authority as a tax-exempt obligation in accordance with the Code.

5. The Authority shall enter into a note purchase agreement, loan agreement, assignment documents and such other financing agreements and security agreements with the Bank and the Borrower, all as shall be necessary or desirable to provide for the sale, issuance, and delivery of the Authority Note and the repayment of the Authority Note out of the amounts to be paid by or on behalf of the Borrower to this Authority, or to the Bank as assignee of the Authority, and containing such other terms, conditions, representations, warranties and financial covenants as shall be mutually agreeable among the parties (the "Loan Documents").

6. The Chairman or Vice Chairman and the Secretary or Assistant Secretary, respectively, of the Authority are authorized and directed to execute, to attest and to deliver the Authority Note and the Loan Documents, in such forms as shall be approved by such officers after consultation with the Solicitor to this Authority and Bond Counsel, the execution and delivery of the Authority Note and the Loan Documents by such officers to constitute conclusive evidence of their approval.

7. The obligations of this Authority in connection with the financing of the Project shall be special and limited obligations of the Authority, payable solely and exclusively from the income, revenues and the property of the Project, together with such other collateral as shall be pledged by the Borrower and its affiliates to secure the repayment of such obligations. Such obligations shall not constitute a general obligation of the Authority, a debt of the Commonwealth, or any political subdivision thereof, including Bristol Township, and neither the Commonwealth nor any political subdivision thereof, including Bristol Township, shall be liable thereon.

8. No recourse under or upon any obligation, covenant or agreement made with respect to the Project or the Authority Note shall be had against any past, present or future member, officer or employee of this Authority or any successor of this Authority under any rule of law, statute or constitutional provision, it being expressly agreed and understood that all obligations relating to the Project and the Authority Note are solely corporate obligations of this Authority and that no personal liability whatsoever shall be attached to or shall be incurred by such members, officers or employees of this Authority or any successor of this Authority or any of them by reason of any obligation, covenant or agreement relating to the Project or the Authority Note. Furthermore, the Authority Note and the Loan Documents shall provide that the Borrower shall indemnify

this Authority and its members, officers, and employees for acts, omissions and liabilities arising from or in any manner in connection with the Project, all as shall be deemed necessary or appropriate by the Solicitor to this Authority.

9. The Borrower shall be responsible to pay, at the time of issuance of the Authority Note, the Authority's administrative fee, the fees and expenses of the Authority's Solicitor and all costs of issuance of the Authority Note, including printing costs, advertising costs and fees, costs and expenses of the Bank, Bond Counsel and other professionals engaged by the Authority, the Borrower or other parties to the financing.

10. The proper officers of this Authority are authorized and directed to execute and to deliver such other documents and to do such other things as may be necessary to obtain all approvals for the issuance of the Authority Note, to qualify the Authority Note as a tax-exempt obligation, and to carry out the covenants and obligations of the Authority in the Loan Documents, including such documents and acts as may be necessary to comply with requirements of Section 103(b)(2) of the Code, and the intent and purpose of this Resolution; and said officers are hereby authorized to do such other things as may be necessary or appropriate to consummate the transaction herein contemplated.

11. The Authority acknowledges that the Borrower has expended or, from time to time may expend, certain of its own funds to pay costs of the Project, including fees and expense of architects, lawyers and financial advisors, advertising costs, filing fees, printing costs, and costs of acquisition or construction, prior to the date of issuance of the Authority Note, but with the intent that such expenditures be reimbursed out of the proceeds of the Authority Note. The Authority hereby declares its intention to reimburse the Borrower of such Project expenditures out of proceeds of the Authority Note to the extent permitted by Treasury Regulation Section 1.150-2, as applicable.

12. The Authority approves, ratifies and confirms all actions heretofore taken by officers and other persons on behalf of the Authority in connection with the undertakings herein contemplated to the extent not inconsistent herewith.

13. In the event any provision, section, sentence, clause or party of this Resolution shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Resolution, it being the intent of the Authority that such remainder shall be and shall remain in full force and effect.

14. All resolutions or parts of resolutions inconsistent herewith expressly are repealed.

15. This Resolution shall become effective immediately.

Motion of Board Member Erwin, seconded by Board Member Propst. A roll call vote was taken and the motion was unanimously carried.

Chairman Roberts adjourned the meeting at 7:34 p.m.

QUAKERTOWN AREA INDUSTRIAL & COMMERCIAL DEVELOPMENT AUTHORITY

David Erwin, Secretary