

It was moved by Mr. Bolton and seconded by Ms. Reindl-Johnson that the following resolution be adopted:

RESOLUTION NO. 2014-07

A RESOLUTION (I) APPROVING AND AUTHORIZING A TRANSACTION CONCERNING THE CONSTRUCTION, DEVELOPMENT, EQUIPPING, AND INSTALLATION OF REAL PROPERTY FOR AN OFFICE AND MANUFACTURING FACILITY CONSTITUTING A "PORT AUTHORITY FACILITY"; (II) APPROVING THE EXECUTION AND DELIVERY OF A GROUND LEASE AND A PROJECT LEASE IN CONNECTION WITH THE TRANSACTION; AND (III) APPROVING THE PROVISION OF OHIO SALES AND USE TAX EXEMPTION CERTIFICATES FOR THE PURCHASE OF BUILDING AND CONSTRUCTION MATERIALS INCORPORATED INTO THE OFFICE AND MANUFACTURING FACILITY.

WHEREAS, the Warren County Port Authority (the "Authority"), pursuant to a Cooperative Agreement entered into on July 15, 2013 with the Board of County Commissioners of Preble County, Ohio ("Preble County"), is authorized to promote commerce and economic development within Preble County by providing assistance to projects that create and preserve jobs and employment opportunities within Preble County; and

WHEREAS, Henny Penny Corporation (collectively, with its affiliates, subsidiaries, and related entities, "Henny Penny"), is fee owner of certain real property located on approximately 45 acres in the City of Eaton, Preble County, Ohio (the "Project Site"); and

WHEREAS, the Authority, by virtue of the laws of the State of Ohio, particularly Ohio Revised Code Sections 4582.21 through 4582.59 (the "Act") and the authorities therein mentioned, is authorized (i) to acquire a leasehold interest in the Project Site by operation of a Ground Lease (the "Ground Lease") between Henny Penny Corporation, as ground lessor, and the Authority, as ground lessee; (ii) to acquire title to a structure and other site improvements to be located on the Project Site consisting primarily of a forty-five thousand and five hundred (45,500) square foot office and manufacturing facility; and (iii) to lease the Project and the Project Site to Henny Penny Corporation by operation of a Project Lease (the "Project Lease") between the Authority, as lessor, and Henny Penny Corporation, as lessee; (collectively, items (i) through (iii) above are referred to herein as the "Proposed Transaction"); and

WHEREAS, attached to this Resolution as Exhibit A is a draft of the Ground Lease; and

WHEREAS, attached to this Resolution as Exhibit B is a draft of the Project Lease; and

WHEREAS, Henny Penny intends to start soliciting contracts for construction of the Project and has requested that the Authority provide certificates evidencing the exemption from State of Ohio sales and use taxes of purchases of building and construction materials for incorporation into the Project, and the Authority is willing to provide such certificates upon

acquisition by the Authority of a leasehold interest in the Project Site and the execution of an agreement by Henny Penny to convey ownership of the Project upon its completion; and

WHEREAS, the Project is expected (i) to create jobs and employment opportunities and thereby to enhance the economic welfare of the people of Preble County and (ii) to enhance, foster, aid, provide, or promote recreation and economic development within Preble County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Warren County Port Authority that:

Section 1. This Board does hereby find and determine, based upon the representations of Henny Penny, that:

(a) The Project is a "port authority facility" within the meaning of that term as defined in Ohio Revised Code Section 4582.21; and

(b) The Project is consistent with, related to, useful for, and in furtherance of the activities contemplated by (i) Ohio Constitution, Article VIII, Section 13, including to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State of Ohio, and (ii) Ohio Revised Code Section 4582.21(B)(1), including to enhance, foster, aid, provide, or promote recreation and economic development within Preble County.

Section 2. This Board hereby approves the participation of the Authority in the Proposed Transaction, on substantially the same terms as those set forth in the Ground Lease and Project Lease currently on file with the Board.

Section 3. This Board hereby approves the Ground Lease, substantially in the form currently on file with the Board, with such changes as shall not be materially adverse to the Authority and as may be approved by the officer or officers of the Authority executing the same. The Chairperson of the Authority, the Executive Director of the Authority, or the Fiscal Officer of the Authority, or any of them, are hereby authorized and directed to execute and deliver, for and in the name and on behalf of the Authority the Ground Lease, with such changes thereto as shall not be materially adverse to the Authority. The execution of the Ground Lease by a duly authorized officer or officers of the Authority shall evidence conclusively that any such changes are not materially adverse to the Authority and that any conditions to its execution and delivery have been satisfied.

Section 4. This Board hereby approves the Project Lease, substantially in the form currently on file with the Board, with such changes as shall not be materially adverse to the Authority and as may be approved by the officer or officers of the Authority executing the same. The Chairperson of the Authority, the Executive Director of the Authority, or the Fiscal Officer of the Authority, or any of them, are hereby authorized and directed to execute and deliver, for and in the name and on behalf of the Authority the Project Lease, with such changes thereto as shall not be materially adverse to the Authority. The execution of the Project Lease by a duly authorized officer or officers of the Authority shall evidence conclusively that any such changes

are not materially adverse to the Authority and that any conditions to its execution and delivery have been satisfied.

Section 5. The Chairperson of the Authority, the Executive Director of the Authority, or the Fiscal Officer of the Authority, or any of them, are each authorized and directed to take such further actions and execute any certifications, financing statements, assignments, agreements, instruments, and other documents that are necessary or appropriate to consummate the Proposed Transaction in accordance with this Resolution, the Ground Lease, the Project Lease, or as may be required by the Act or Ohio Revised Code Chapter 5739. The Authority shall, at any and all times, cause to be done all such further acts and things and cause to be executed and delivered all such further instruments as may be necessary or appropriate to consummate the Proposed Transaction in accordance with this Resolution, the Ground Lease, the Project Lease, or as may be required by the Act or Ohio Revised Code Chapter 5739 and shall comply with all requirements of law applicable to the Proposed Transaction.

Section 6. This Board hereby authorizes the Chairperson of the Authority, the Executive Director of the Authority, or the Fiscal Officer of the Authority, or any of them, upon the execution of the Ground Lease and the Project Lease by the parties thereto, to provide Henny Penny or its nominees with appropriate certificates ("Exemption Certificates") to support the claim of an exemption from Ohio sales and uses taxes that might otherwise apply with respect to the purchase of building and construction materials incorporated into structures or improvements to real property, within the meaning of Ohio Revised Code Section 5739.02(B)(13), that constitute Project improvements.

Section 7. This Board finds and determines that all formal actions of this Board concerning and relating to the adoption of this Resolution were taken in an open meeting of this Board and that all deliberations of this Board and of any committees that resulted in those formal actions were in meetings open to the public in full compliance with applicable legal requirements.

Section 8. This Resolution shall be in full force and effect upon its adoption.

The foregoing motion having been put to vote, the result of the roll call was as follows:

Voting Aye: Mr. Bolton, Mr. Gully, Ms. Hreben, Ms. Reindl-Johnson, Mr. Wilson

Voting Nay: **None**

The undersigned, Secretary of the Board of Directors of the Warren County Port Authority, does hereby certify that the foregoing is a true and correct copy of a resolution of the Warren County Port Authority, duly adopted October 28, 2014, and appearing upon the official records of that Board.

Adopted: October 28, 2014

Dated: October 28, 2014

Attest: 
Secretary, Board of Directors
Warren County Port Authority

EXHIBIT A
GROUND LEASE

EXHIBIT B
PROJECT LEASE