

RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on December 17, 2019 at 8:00 a.m. in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

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

PRESENT: Michael Frame, Kathleen Murphy, Steven Thompson, Rickey Brown, Kenneth Kinsey

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff Present: Judith DeLaney, Susan Katzoff, Esq., John Vavonese, Debra Ramsey-Burns; Others Present: Jeremy Cali, Thomas Douglas, Suzanne Stack, Donna Hanover, Laura Cueva, Matthew Paulus, Aggie Lane, Joshua Werbeck, Esq., Eric Ennis, Jennifer Tiffit, Timothy Lynn, Esq. Mike Palermo; Media: Rick Moriarty

The following resolution was offered by Rickey T. Brown and seconded by Steven Thompson:

RESOLUTION APPROVING THE AGENCY'S PARTICIPATION IN THE REFINANCING OF THE PROJECT; AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH AND AUTHORIZING AN INCREASE IN CERTAIN FINANCIAL ASSISTANCE

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "**Act**"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, for the purpose of promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, by resolution adopted on March 9, 2016 (the "**Inducement Resolution**"), the Agency approved the undertaking of a project (the "**Project**") at the request of 900 East Fayette Group, LLC (the "**Company**") consisting of: (A)(i) the acquisition of an interest in approximately .5 acres of real property improved by an existing four story, approximately 18,400 square foot building (the "**Existing Building**") located at 900-16, 918 and 922-24 East Fayette Street and 305-07 Irving Avenue (to be known as 900-916 East Fayette Street), in the City of Syracuse, New York (the "**Land**"); the renovation of the Existing Building for use as a mixed-

use complex including approximately 4,600 square feet of retail space on the first floor and approximately 13,800 square feet on floors 2-4 containing 12 oversized one-bedroom market-rate apartments; the construction of a new four story approximately 35,000 square foot building including approximately 8,500 square feet of retail space on the first floor and approximately 26,500 square feet on floors 2-4 containing approximately 30 market-rate apartments (the "**New Building**") and together with the Existing Building, the "**Facility**"; (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**") and together with the Land and the Facility, the "**Project Facility**"; (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (as limited by Section 874 of the General Municipal Law) (the "**Financial Assistance**"; (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, renovation and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, in November 2017, the Company and the Agency closed on the Project; and

WHEREAS, in conjunction with the Project, the Company and the Agency entered into a Construction Loan and Permanent Loan Mortgage dated November 2, 2017 in the amount of \$7,150,888.00; and thereafter in or about January 2019 entered into a gap mortgage in the amount of \$849,112.00 and a consolidation agreement pursuant to which the mortgages were consolidated into a single instrument in an aggregate amount not to exceed \$8,000,000 (collectively the "**Mortgage**") all in favor of Five Star Bank ("**Five Star**") to secure the Company's obligations under corresponding notes (collectively the "**Initial Loan**"; and

WHEREAS, by letter dated December 11, 2019, the Company has requested that the Agency participate in the modification of the Mortgage with Five Star (collectively, the "**Modification**") consisting of the: (a) execution and delivery of a modification agreement and related documents in favor of Five Star to extend the term of the Mortgage by six (6) months and to increase the amount secured by \$1,000,000 for an aggregate total under the Mortgage of an amount not to exceed Nine Million Dollars (\$9,000,000.00); (b) execution and delivery of all documents reasonably necessary, upon advice of Agency's counsel, to effectuate the Modification (collectively (a) and (b) above, the "**Financing Documents**"; and (c) the granting of additional Financial Assistance in the form of an increase in the mortgage recording tax exemption awarded to the Company to cover the \$1,000,000 in additional financing required to complete the construction; namely, an amount not to exceed \$7,500 (the "**Additional Financial Assistance**"; and

WHEREAS, the Company has advised that they experienced cost over-runs during construction which has required the need to increase the amount of the Mortgage as set forth above. The Company has further advised that construction is complete (aside from certain tenant build-outs); and

WHEREAS, the Agency Lease dated as of November 1, 2017, executed by the Company and the Agency in connection with the Project (the "*Agency Lease*"), anticipated the Agency's participation in such additional financings; and

WHEREAS, the Modification is in furtherance of the Financial Assistance that was previously approved for the Project, which underwent an environmental review by the Agency pursuant to the State Environmental Quality Review Act ("*SEQRA*"), and the present request for additional financing is insubstantial and does not require reconsideration or further review by the Agency under SEQRA.

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency as follows:

(1) Based upon the representations made by the Company to the Agency, the Agency hereby makes the following findings and determinations:

(a) The Agency's award of the Additional Financial Assistance and its participation in the Modification and the execution and delivery of the Financing Documents will not result in a change to the Project as originally considered and therefore no further SEQRA review or action is required; and

(b) The Agency has the authority to, and hereby does, approve its participation in the Modification, the execution and delivery of the Financing Documents and the Additional Financial Assistance. The (Vice) Chairman and/or Executive Director of the Agency, acting individually, are each hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the Financing Documents, or take any other action required to carry out the intent of, this Resolution upon the advice of counsel, and to execute and deliver any such additional certificates, instruments, documents or affidavits, to pay any such other fees, charges and expenses, to make such other changes, omissions, insertions, revisions, or amendments to the documents referred to herein as the (Vice) Chairman deems appropriate, and to do and cause to be done any such other acts and things, as they determine, on advice of counsel to the Agency, may be necessary or desirable to consummate the transactions contemplated by this Resolution. The execution thereof by the (Vice) Chairman or Executive Director constitutes conclusive evidence of such approval.

(2) As a condition precedent to the Agency's participation in the Modification, the providing of the Additional Financial Assistance and the execution and delivery of the Financing Documents, all as set forth herein, the Company will submit to the Agency the appropriate administrative fee, including the Agency's legal fees associated with the Modification, the Additional Financial Assistance and the Financing Documents; the Company shall execute and deliver the Financing Documents and shall provide proof of insurance as required under the Agency Lease as well as any additional certificates, documents or reporting information required by the Agency.

(3) Should the Agency's granting of the Additional Financial Assistance or its participation in the Modification or the Financing Documents or any related documents be

challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursement of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under the Act to participate in the Financing Documents, the Modification or provide the Additional Financial Assistance, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

(4) No covenant, stipulation, obligation or agreement contained in this Resolution or any document referred to herein shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

(5) The Secretary and/or the Executive Director of the Agency is hereby authorized to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

(6) This Resolution shall take effect immediately. A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

The question of the adoption of the foregoing Resolution was duly put to vote on a roll call, which resulted as follows:

	<u>AYE</u>	<u>NAY</u>
Michael Frame	X	
Kathleen Murphy	X	
Steven Thompson	X	
Rickey Brown	X	
Kenneth Kinsey	X	

The foregoing Resolution was thereupon declared duly adopted.

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

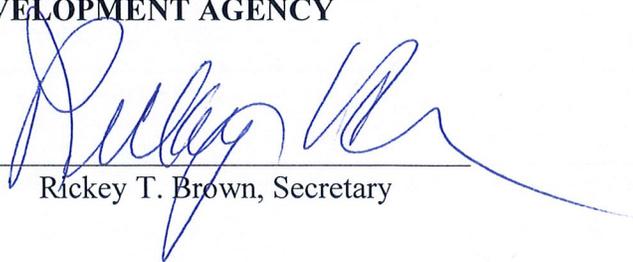
I, the undersigned Chairman of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the "**Agency**") held on December 17, 2019, with the original thereof on file in my office, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I **FURTHER CERTIFY** that (i) all members of the Agency had due notice of such meeting; (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104; (iii) the meeting was in all respects duly held; and (iv) there was a quorum present throughout.

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 set my hand and affixed the seal of the Agency this 20 day of December, 2019.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Rickey T. Brown, Secretary

(SEAL)