

RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on April 16, 2019 at 8:00 o'clock a.m., local time, 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: Steven Thompson, Kathleen Murphy, Rickey T. Brown, Kenneth Kinsey, Michael Frame (via teleconference at second location at NanoFab East, 257 Fuller Road, Albany, New York 12203)

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff Present: Honora Spillane, Susan R. Katzoff, Esq., Judith DeLaney, John Vavonese, Debra Ramsey-Burns; Others Present: Aggie Lane, Anthony Dipeso, Lauryn LaBourde, Rich Puchalski, Bob Wilmott, Stephanie Pasquale

The following resolution was offered by Kathleen Murphy and seconded by Kenneth Kinsey:

RESOLUTION AUTHORIZING AMENDMENT TO PROJECT PREVIOUSLY UNDERTAKEN BY THE AGENCY

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, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, and to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, lease and sell real property and grant financial assistance in connection with one or more "projects" (as defined in the Act); and

WHEREAS, Commonsplace Warren, LLC, or an entity to be formed (the "**Company**"), by application dated November 6, 2018 (the "**Original Application**"), requested the Agency undertake a project (the "**Original Project**") consisting of: (A)(i) the acquisition of an interest in approximately: (a) 3,102 sq. ft. of real property located at 349 South Warren St., improved by an approximate 15,180 sq. ft. building ("**349**"); (b) 8,680 sq. ft. of real property located at 351-53

South Warren Street, improved by an approximate 68,185 sq. ft. building ("**351**"); and (c) 6,006 sq. ft. of real property located at 357-59 South Warren St., improved by an approximate 30,800 sq. ft. building ("**357**"), each in the City of Syracuse, New York (collectively, the "**Land**"); (A)(ii) the reconstruction and renovation of: (a) approximately 10,800 sq. ft. on the 4th and 5th floors of 349 into modern office space and common work space; (b) approximately 22,500 sq. ft. on the 6th, 7th and 8th floors of at 351 to accommodate approximately 44 apartment units; and the renovation of approximately 7,500 sq. ft. on the 2nd floor of at 351 into common work space; and (c) approximately 3,000 sq. ft. on the 2nd floor of 357 to accommodate new office space with two doorways connecting the 2nd floor of 357 to 351; and approximately 1,000 sq. ft. in the basement of 357 to create an access corridor with 351, all located on the Land (collectively, the "**Original Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Original Equipment**" and together with the Land and the Facility, the "**Original Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the "**Original Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, redevelopment, renovation, equipping and completion of the Original Project Facility; and (D) the lease of the Land and Original Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Original Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Original Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency conducted a public hearing with respect to the Original Project and the proposed Financial Assistance on January 15, 2019 pursuant to Section 859-a of the Act, notice of which was published on December 27, 2018, in the Post-Standard, a newspaper of general circulation in the City of Syracuse, New York and given to the chief executive officers of the affected tax jurisdictions by letters dated December 21, 2018; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as "**SEQRA**"), the Agency is required to make a determination whether the "action" (as said quoted term is defined in SEQRA) to be taken by the Agency may have a "significant impact on the environment" (as said quoted term is utilized in SEQRA), and the preliminary agreement of the Agency to undertake the Original Project constitutes such an action; and

WHEREAS, by resolution adopted January 15, 2019 (the "**SEQRA Resolution**"), the Agency determined that the Original Project constitutes an "Unlisted Action" as defined under SEQRA and will not have a significant adverse effect on the environment and issued a negative declaration; and

WHEREAS, by resolutions adopted January 15, 2019 (collectively, the "**Resolutions**"), the Agency authorized the undertaking, acquisition, reconstruction, renovation, equipping and completion of the Original Project, the provisions of the Original Financial Assistance and the execution and delivery of an agency agreement by and between the Company and the Agency (as defined in the Resolutions, the "**Agreement**"); and

WHEREAS, the Company, by supplemental application dated April 10, 2019 (the "**Supplemental Application**") and together with the Original Application, the "**Application**"), requested changes to the Original Project (the "**Project**") such that the new Project consists of: (A)(i) the acquisition of an interest in approximately: (a) 3,102 sq. ft. of real property located at 349 South Warren St., improved by an approximate 15,180 sq. ft. building ("**349**"); (b) 8,680 sq. ft. of real property located at 351-53 South Warren Street, improved by an approximate 68,185 sq. ft. building ("**351**"); and (c) 6,006 sq. ft. of real property located at 357-59 South Warren St., improved by an approximate 30,800 sq. ft. building ("**357**"), each in the City of Syracuse, New York (collectively, the "**Land**"); (A)(ii) the reconstruction and renovation of: (a) approximately 8,100 sq. ft. on the 4th and 5th floors of 349 into modern office space and common work space and approximately 2,700 sq. ft. on the 5th Floor to accommodate approximately 2 apartment units; (b) approximately 30,000 sq. ft. on the 5th, 6th, 7th and 8th floors of at 351 to accommodate approximately 53¹ apartment units; and the renovation of approximately 7,500 sq. ft. on the 2nd floor of at 351 into common work space; and (c) approximately 3,000 sq. ft. on the 2nd floor of 357 to accommodate new office space with two doorways connecting the 2nd floor of 357 to 351; and approximately 1,000 sq. ft. in the basement of 357 to create an access corridor with 351, all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, redevelopment, renovation, equipping and completion 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, the modifications to the Original Project have resulted in an increase in the total project costs. As a result, the amount of the mortgage increased from approximately \$9,010,238 to \$9,829,000 and the amount of goods and services subject to State and local sales and use tax has also increased to \$2,691,055. Therefore, the Company is requesting that the Original Financial Assistance be increased by approximately \$6,141 with respect to the exemption from mortgage recording tax and by \$26,213 with respect to State and local sales and use tax exemption such that the amount of State and local sales and use tax exemption benefits awarded shall not exceed **\$215,284** (collectively, the "**Additional Financial Assistance**"). The aggregate amount of the Additional Financial Assistance is approximately \$32,354; and

WHEREAS, the requested changes to the Original Project do not exceed \$100,000 and therefore do not require a new public hearing; and

WHEREAS, the Original Project underwent an environmental review by the Agency pursuant to SEQRA, and the proposed changes to the Original Project are not substantial and do

¹ The yellow highlighted section contains the new/revised portions of the Project.

not require reconsideration or further review by the Agency under SEQRA; and

WHEREAS, the Company has confirmed that the changes to the Original Project do not impact the job creation and/or retention at the Project Facility as reported in the Original Application; and

WHEREAS, the Agency has considered the policy, purposes and requirements of the Act in making its determinations with respect to the proposed changes to the Original Project; and

WHEREAS, the Company has confirmed that no other aspects of the Original Project or their Original Application have changed other than as outlined herein and as set forth in the Supplemental Application.

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

Section 1. It is the policy of the State to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation and economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration. It is among the purposes of the Agency to promote, develop, encourage and assist in the acquiring, constructing, improving, maintaining, equipping and furnishing of certain facilities, including commercial facilities, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their recreation opportunities, prosperity and standard of living. The Project will advance these goals.

Section 2. Based upon the representations and projections made by the Company to the Agency in connection with the Supplemental Application, the Agency hereby and makes the following determinations:

(A) The changes proposed to the Original Project are not a substantive change for purposes of SEQRA and the Agency hereby ratifies and confirms the SEQRA Resolution with respect to the Project;

(B) The Project constitutes a “*project*” within the meaning of the Act; and

(C) The changes to the Original Project as proposed herein do not have any impact on the job creation and/or job retention.

Section 3. All other terms and conditions of the Resolutions are hereby affirmed and all such terms and conditions set forth therein apply to the Project. The modifications to the Original Project, as set forth herein, are hereby incorporated into the Resolutions by reference as well as into the Agreement (as defined in and attached to the Resolutions). As a condition to undertaking the Project, the Agency is hereby directed to substitute the new Project description into the Agreement and any and all other documents related to the Project. The Agreement otherwise is affirmed in all respects.

Section 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.

Section 5. Should the Agency's participation in the Project, or the appointments made in accordance herewith, 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 Project, 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.

Section 6. Bousquet Holstein PLLC, as counsel to the Agency, is hereby authorized to work with the Company and others to prepare for submission to the Agency, all documents necessary to effect the grant of Financial Assistance and consummate the Lease Documents.

Section 7. The Secretary and/or the Executive Director of the Agency are hereby authorized and may distribute copies of this Resolution and do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 8. 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	
Steven Thompson	X	
Kathleen Murphy	X	
Rickey T. Brown	X	
Kenneth Kinsey	X	

The foregoing Resolution was thereupon declared duly adopted.

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

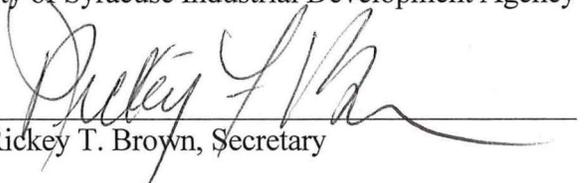
I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the "**Agency**") held on April 16, 2019, with the original thereof on 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 19 day of April, 2019.

City of Syracuse Industrial Development Agency



Rickey T. Brown, Secretary

(SEAL)