

APPROVING RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on March 20, 2018 at 8:30 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, Steven Thompson, Kenneth Kinsey, Rickey T. Brown, Kathleen Murphy

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff Present: Honora Spillane, Judith DeLaney, Meghan Ryan, Esq., John Vavonese, Debra Ramsey-Burns, Susan R. Katzoff, Esq.; Others Present: Tom Ionnzo, Michael Lisson, Lauryn Laborde, Mitch Latimer, Aggie Lane, Mel Menan, Pete King, Wendy Cansnot, Donna Harris, Alex Grant; Media/Press Present: Rick Moriarty

The following Resolution was offered by Rickey T. Brown and seconded by Kenneth Kinsey:

RESOLUTION APPROVING THE AGENCY'S EXECUTION OF COMPANY LEASE AND AGENCY LEASE TERMINATIONS AND THE TERMINATION OF RELATED DOCUMENTS

WHEREAS, the policy of the State of New York (the "*State*") set forth in Title 1 of Article 18-A of the General Municipal Law of the State, as amended (the "*IDA Act*"), is to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation, economically sound commerce and industry through governmental action for the purpose of preventing unemployment and economic deterioration by the creation of industrial development agencies and to protect and promote the health of the inhabitants of the State and to increase trade through promoting the development of facilities to provide recreation for the citizens of the State and to attract tourists from other states; and

WHEREAS, the IDA Act further provides that the use of all the foregoing powers and rights is a public purpose essential to the public interest for which public funds may be expended; and

WHEREAS, City of Syracuse Industrial Development Agency (the "*Agency*") constitutes an industrial development agency established under the IDA Act and Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (the "*Enabling Act*" and together

with the IDA Act, the "*Act*") and is thereby authorized and empowered 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, including industrial pollution control facilities, educational or cultural facilities, railroad facilities and certain horse racing facilities, thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, on or about April 1, 1991, the Agency entered into a lease agreement with M&T Bank, fka OnBank (*M&T*) whereby the Agency accepted a leasehold interest in portions of certain properties located at 140 Genesee St. E & Warren St (tax ID # 104-24-07.0) and 131 Salina St. South & Washington St. (tax ID # 104-24-08.0) (collectively the "*Parking Land*") to be used as a parking garage (the "*Parking Garage Lease*"). Following the execution of the Parking Garage Lease, M&T transferred fee title ("*Title*") to the Agency of three parcels of land, including the Parking Land, located at 101 Salina St. South & Water Street E (tax ID # 1043-24-09.0), 140 Genesee St. E & Warren St (tax ID # 104-24-07.0) and 131 Salina St. South & Washington St. (tax ID # 104-24-08.0) (collectively, the "*Land*") *subject to* the Parking Garage Lease. After taking Title to the properties, the Agency leased to M&T portions of the Land including all spaces other than the Parking Land, back to M&T (the "*Retail Lease*"); and

WHEREAS, in conjunction with the foregoing, the Agency issued its Civic Facility Revenue Bonds (Community Development Properties – Vanderbilt/Larned Project), Series 1991 in the aggregate principal amount of \$12,000,000 (the "*Series 1991 Bonds*") to undertake the renovation, construction and equipping of the properties (the "*Project*"). Thereafter, in or about March 1995, at the Company's request, the Agency issued its Civic Facility Revenue Bonds (Community Development Properties – Vanderbilt/Larned Project), Series 1995 to refund the outstanding Series 1991 Bonds (the "*Series 1995 Bonds*"); and

WHEREAS, the Series 1995 Bonds mature on April 1, 2018 (the "*Maturity Date*"); and

WHEREAS, the Retail Lease provides for a termination on March 31, 2018 or upon the payment in full of the Series 1995 Bonds. The Retail Lease goes onto state "Contemporaneously with the termination of this Lease Agreement, upon expiration of the term of this Lease or otherwise, the Landlord shall sell and the Tenant shall purchase the Larned Property, the Vanderbilt Property and the On Bank Property, for the sum of One Dollar (\$1.00), subject, however, to the Parking Garage Lease Agreement". For purposes of this Resolution, the Larned Property, the Vanderbilt Property and the On Bank Property comprise the Land; and

WHEREAS, upon the payment in full of the Series 1995 Bonds, the Agency, pursuant to the terms of the Retail Lease will be obligated to transfer fee title to the Land to M&T, *subject to the terms of the Parking Garage Lease* and to execute any and all certificates, instruments, documents or affidavits necessary to effectuate the transfer of fee title to the Land and to terminate the Retail Lease all as set forth herein and in the Retail Lease (collectively, the "*Termination Documents*"); and

WHEREAS, M&T has requested that the Agency execute and deliver the Termination Documents on or immediately following April 1, 2018 and has further requested the Agency consider the early termination of the Parking Garage Lease (the "***Parking Termination***").

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

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

(a) The Agency has the authority to execute and deliver the Termination Documents in accordance with the terms hereof and the terms of the Retail Lease upon review and advice of counsel. The Chairman, 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 Termination Documents and to make such other changes, omissions, insertions, revisions, or amendments to the Termination Documents 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 Chairman, Vice Chairman and/or Executive Director constitutes conclusive evidence of such approval.

(b) As a condition precedent to the Agency's participation in the execution of the Termination Documents, the Company shall remit any and all fees, administrative or otherwise, owing to the Agency, including but not limited to its legal fees and filing fees associated or incurred with respect to the Termination Documents.

(c) Should the Agency's participation in the execution of the Termination 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 execution of the Termination Documents, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to Company hereunder or otherwise.

(d) The Agency is not making any finding, nor taking any action at this time, on the Parking Termination request. The Agency reserves the right to consider this request at a later time.

(e) No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to above 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.

(f) The Secretary and/or the Executive Director of the Agency are hereby authorized and may 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.

(g) 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:

	AYE	NAY
Michael Frame	X	
Steven Thompson	X	
Rickey T. Brown	X	
Kenneth Kinsey	X	
Kathleen Murphy	X	

The foregoing Resolution was thereupon declared duly adopted.

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

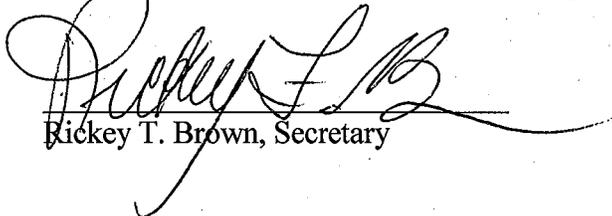
I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “Agency”) held on March 20, 2018, with the original thereof on file 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 17th day of April, 2018.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Rickey T. Brown, Secretary

(SEAL)