

## RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on November 19, 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, Steven Thompson, Kathleen Murphy, Rickey T. 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, Ed Riley, Suzanne Stack, Donna Harris, Jen Tiff, Deli Vargus, Gail Cauley, Zach Benjamin, Esq., Joe Marisa, Richard Engel, Esq., Tom Douglas, Scott Freeman; Media: Rick Moriarty

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

### **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**, at the request of State Tower Building, LLC (the "**Company**"), by resolution dated March 9, 2016 (the "**Inducement Resolution**") the Agency agreed to undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in approximately 1.2 acres of real property improved by an existing twenty-one (21) story, approximately 211,00 square foot building and garage (the "**Building**") located at 201-19 East Genesee Street & Warren Streets, in the City of Syracuse, New York (the "**Land**"); the renovation of the Building for use as a mixed-use complex including Class A office space and retail on the first 8 floors; approximately 57 market-rate studio, one and two bedroom apartment units on the upper 13

floors; significant façade restoration; and a 100 car on-site parking garage, all located on the Land (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 (the "*Financial Assistance*"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, 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**, the Company and the Agency participated in one or more construction mortgages securing corresponding loans in the amount of \$15,600,000 (the "*Construction Loan*") as well as a bridge loan in the amount of \$2,981,941 (the "*Bridge Loan*" and collectively with the Construction Loan, the "*Construction Financing*") and received an exemption from mortgage recording tax related thereto; and

**WHEREAS**, due to unforeseen circumstances, including, but not limited to, the abatement costs, renovation costs substantially exceeded the initial budget, requiring additional funds ("*Debt*") to complete the Project; and

**WHEREAS**, the Company is now requesting the Agency participate in the refinance of the Construction Financing to permanent financing on the Project by refinancing the current debt balance of \$15,360,000 under the Construction Financing as well as additional debt of approximately \$6,640,000 for an aggregate of \$22,000,000 through S&T Bank (the "*Permanent Financing*") by executing and delivering: (i) a gap mortgage in the amount of \$6,640,000 and a consolidated mortgage in the amount of approximately \$22,000,000 (consolidating the Construction Loan, the Bridge Loan and the Gap Mortgage) and all related documents in favor of S&T Bank in an amount not to exceed Twenty-Two Million Dollars (\$22,000,000) to secure the permanent financing of the Project (collectively, the "*Mortgage*"); and (ii) all other documents reasonably necessary, upon advice of Agency's counsel, to effectuate the Permanent Financing (collectively, the "*Permanent Documents*"); and

**WHEREAS**, the Company has requested an increase in the amount of the Financial Assistance to accommodate the increase in the mortgage recording tax associated with the Debt required to finance the Project. As such, the Company has requested the Agency approve an increase of \$49,800 in mortgage recording tax exemption (the "*Additional Financial Assistance*"); and

**WHEREAS**, a public hearing was held on the Project including the original mortgage recording tax exemption. The requested increase does not exceed \$100,000 and therefore does not require a new public hearing; and

**WHEREAS**, the Agency Lease dated as of March 1, 2016, executed by the Company and the Agency in connection with the Project (the "*Agency Lease*"), anticipated the Agency's participation in the Permanent Financing; and

**WHEREAS**, the Permanent Financing 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 sales tax appointment extension request 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 participation in the Permanent Financing and the execution and delivery of the Permanent 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 Permanent Financing and the Additional Financial Assistance as well as the execution and delivery of the Permanent Documents. 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 Permanent Documents 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 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 or Executive Director constitutes conclusive evidence of such approval.

(2) As a condition precedent to the Agency's participation in the Permanent Financing, the Permanent Documents and the granting of the Additional Financial Assistance, the Company will submit to the Agency the appropriate fee, including the Agency's legal fees associated with the Additional Financial Assistance, the Permanent Financing and the execution and delivery of the Permanent Documents and provide proof of insurance as required under the Agency Lease as well as any additional required certificates or documents, in exchange for the Agency's participation therein and the execution and delivery of the Permanent Documents.

(3) Should the Agency's granting of the Additional Financial Assistance or the participation in the Permanent 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 Permanent Documents or 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	
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 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 November 19, 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 26 day of November, 2019.

**CITY OF SYRACUSE INDUSTRIAL  
DEVELOPMENT AGENCY**

By:   
Michael Frame, Chairman

(SEAL)