

**RESOLUTION AUTHORIZING AMENDMENT TO PILOT AGREEMENT
TRHACKETT LLC PROJECT**

A regular meeting of City of Albany Industrial Development Agency (the "Agency") was convened in public session at the office of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York on October 19, 2023 at 12:15 p.m., local time.

The meeting was called to order by the (Vice) Chair and, upon roll being called, the following members of the Agency were:

PRESENT:

| | |
|-----------------------|------------|
| Lee E. Eck, Jr. | Vice Chair |
| Hon. Darius Shahinfar | Treasurer |
| Joseph Better | Director |
| John F. Maxwell, Esq. | Director |

ABSENT:

| | |
|--------------------|-----------|
| Elizabeth Staubach | Chair |
| Anthony Gaddy | Secretary |
| Christopher Betts | Director |

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

| | |
|-------------------------|---|
| Sarah Reginelli | Chief Executive Officer |
| Andrew Corcione | Chief Operating Officer |
| Ashley Mohl | Senior Vice President, Capitalize Albany Corporation |
| Renee McFarlin | Senior Economic Developer, Capitalize Albany Corporation |
| Michael Bohne | Communications & Marketing Manager, Capitalize Albany Corporation |
| Emma Fullem | Program Assistant, Capitalize Albany Corporation |
| Amy Horwitz | Executive Assistant, Capitalize Albany Corporation |
| Marisa Franchini, Esq. | Agency Counsel |
| Nadene E. Zeigler, Esq. | Special Agency Counsel |

The following resolution was offered by Joseph Better, seconded by Hon. Darius Shahinfar, to wit:

Resolution No. 1023-____

RESOLUTION AUTHORIZING THE EXECUTION BY CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY OF A CERTAIN FIRST AMENDMENT TO PAYMENT IN LIEU OF TAX AGREEMENT AND RELATED DOCUMENTS IN CONNECTION WITH THE TRHACKETT LLC PROJECT.

WHEREAS, City of Albany Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 325 of the 1974 Laws of New York, as amended, constituting Section 903-a of said General Municipal Law (said Chapter and the Enabling Act being hereinafter

collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more "projects" (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, on December 1, 2021 (the "Closing"), the Agency entered into a lease agreement dated as of November 1, 2021 (the "Lease Agreement") by and between the Agency and TRHackett LLC (the "Company") for the purpose of undertaking a project (the "Project") consisting of the following: (A) (1) the acquisition of an interest in two (2) parcels of land containing in the aggregate approximately 0.67 acres located at 42 Besch Avenue and 47 Besch Avenue (Tax Map numbers: 76.46-4-29 and 76.46-4-30, respectively) in the City of Albany, Albany County, New York (collectively, the "Land"), (2) the construction on the Land of an approximately 60,000 square foot building (the "Facility") and (3) the acquisition and installation therein and thereon of certain machinery, equipment and other personal property (collectively, the "Equipment") (the Land, the Facility and the Equipment being collectively referred to as the "Project Facility"); all of the foregoing to be owned and operated by the Company as an approximately 39 unit residential apartment complex to include off-site parking spaces any other directly and indirectly related activities; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real estate transfer taxes, real property taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease of the Project Facility to the Company pursuant to the terms of the Lease Agreement; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the "Closing"), (A) the Company executed and delivered to the Agency (1) a certain lease to agency dated as of November 1, 2021 (the "Lease to Agency") by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company leased to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the "Leased Premises"); (2) a certain license agreement dated as of November 1, 2021 (the "License to Agency") by and between the Company, as licensor, and the Agency, as licensee, pursuant to which the Company granted to the Agency a license to enter upon the balance of the Land (the "Licensed Premises") for the purpose of undertaking and completing the Project; and (3) a certain bill of sale dated as of November 1, 2021 (the "Bill of Sale to Agency"), which conveyed to the Agency all right, title and interest of the Company in the Equipment, (B) the Company and the Agency executed and delivered (1) a certain payment in lieu of tax agreement dated as of November 1, 2021 (the "Payment in Lieu of Tax Agreement") by and between the Agency and the Company, pursuant to which the Company agreed to pay certain payments in lieu of taxes with respect to the Project Facility, (2) a certain recapture agreement (the "Section 875 GML Recapture Agreement") by and between the Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes and (3) a certain uniform agency project agreement dated as of November 1, 2021 (the "Uniform Agency Project Agreement") relating to the granting of the Financial Assistance by the Agency to the Company, (C) the Agency filed with the assessor and mailed to the chief executive officer of each "affected tax jurisdiction" (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the "Real

Property Tax Exemption Form”) relating to the Project Facility and the Payment in Lieu of Tax Agreement, (D) the Agency executed and delivered to the Company a sales tax exemption letter (the “Sales Tax Exemption Letter”) to ensure the granting of the sales tax exemption which forms a part of the Financial Assistance and (E) the Agency filed with the New York State Department of Taxation and Finance the form entitled “IDA Appointment of Project Operator or Agent for Sales Tax Purposes” (the form required to be filed pursuant to Section 874(9) of the Act) (the “Thirty-Day Sales Tax Report”) (together with the Lease Agreement, the above enumerated documents being collectively referred to as the “Basic Documents”); and

WHEREAS, in order to finance a portion of the costs of the Project, the Company obtained a loan (the “Loan”) in the principal amount of \$5,438,000 from Community Bank, National Association (the “Lender”), which Loan was secured by (1) a mortgage and security agreement (the “Mortgage”) from the Agency and the Company to the Lender and (2) an assignment of rents and leases (the “Assignment of Rents”) from the Agency and the Company to the Lender; and

WHEREAS, the Company has made a request to the Agency (the “Request”), which Request is attached hereto as Exhibit A, that the Agency amend the Payment in Lieu of Tax Agreement pursuant to an amendment to payment in lieu of tax agreement (the “First Amendment to Payment in Lieu of Tax Agreement”) by and between the Agency and the Company to allow (A) an extension of the term of the Payment in Lieu of Tax Agreement and (B) a change in the date of the initial payment in lieu of taxes, as the Project is still under construction; and

WHEREAS, the First Amendment to Payment in Lieu of Tax Agreement would extend the term of the Payment in Lieu of Tax Agreement, the Company has also requested the Agency to modify the terms of the Basic Documents in order to provide for the requested changes to the remaining Basic Documents (the “Modification”); and

WHEREAS, in connection with the Modification, the Company has requested that the Agency enter into a certain modification agreement (the “Modification Agreement”), by and between the Company and the Agency, which Modification Agreement, among other items, will extend the term of the Basic Documents from December 31, 2043 to December 31, 2044; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination whether to proceed with the approval of the Request and Modification (collectively, the “Amendment”); and

WHEREAS, pursuant to SEQRA, the Agency has examined the Amendment in order to make a determination as to whether the Amendment is subject to SEQRA, and it appears that the Amendment constitutes a Type II action under SEQRA;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. Based upon an examination of the Amendment, the Agency hereby determines that the Amendment constitute a “Type II action” pursuant to 6 NYCRR 617.5(26), and therefor that, pursuant to 6 NYCRR 617.6(1)(i), the Agency has no further responsibilities under SEQRA with respect to the Amendment.

Section 2. The Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act;

(B) The Project constituted a "project," as such term is defined in the Act, and the consideration and approval by the Agency of the Amendment constitutes a "project" under the Act;

(C) The Project site is located entirely within the boundaries of the City of Albany, New York;

(D) The approval of the Amendment by the Agency will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Albany County, New York and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act;

(E) As the Request will not result in the Agency providing benefits in excess of \$100,000, there is no requirement for the Agency to hold a public hearing pursuant to Section 859-a of the Act with respect to the Request; and

(F) It is desirable and in the public interest for the Agency to enter into the First Amendment to Payment in Lieu of Tax Agreement and the Modification Agreement (collectively, the "Amended Documents").

Section 3. The Agency hereby approves the Request.

Section 4. Subject to (A) execution and delivery of the Amended Documents by the Company and the Agency, (B) compliance with the terms and conditions in the Basic Documents and (C) payment by the Company of all fees and expenses of the Agency in connection with the delivery of the Amended Documents, including the fees of the Agency, Agency Counsel and Special Counsel, the Agency hereby (a) consents to the Amended Documents and (b) determines to enter into the Amended Documents.

Section 5. The form and substance of the Amended Documents (in substantially the forms presented to this meeting) are hereby approved.

Section 6. Subject to the satisfaction of the conditions described in Section 4 hereof, the Chair (or Vice Chair) of the Agency is hereby authorized to execute and deliver the Amended Documents to the Company, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in substantially the form thereof presented to this meeting, with such changes, variations, omissions and insertions as the Chair (or Vice Chair) shall approve, the execution thereof by the Chair (or Vice Chair) to constitute conclusive evidence of such approval.

Section 7. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Amended Documents, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and

proper to effect the purposes of the foregoing Resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Amended Documents binding upon the Agency.

Section 8. This Resolution shall take effect immediately.

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

| | | |
|-----------------------|--------|--------|
| Elizabeth Staubach | VOTING | ABSENT |
| Lee E. Eck, Jr. | VOTING | YES |
| Hon. Darius Shahinfar | VOTING | YES |
| Anthony Gaddy | VOTING | ABSENT |
| Joseph Better | VOTING | YES |
| Christopher Betts | VOTING | ABSENT |
| John F. Maxwell, Esq. | VOTING | YES |

The foregoing Resolution was thereupon declared duly adopted.

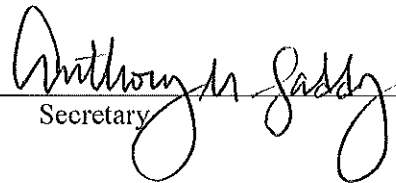
STATE OF NEW YORK)
) SS.:
COUNTY OF ALBANY)

I, the undersigned Secretary of City of Albany Industrial Development Agency (the "Agency"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, held on October 19, 2023 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

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 hereunto set my hand and affixed the seal of the Agency this 23rd day of October, 2023.


Secretary

(SEAL)

EXHIBIT A
REQUEST

TR Hackett LLC (c/o Ron Stein)
560 Madison Ave, 3PH, Albany, NY 12208
917-885-7108 ronald.stein@att.net

October 1, 2023

Ms. Elizabeth Staubach
Chair
City of Albany Industrial Development Agency
21 Lodge Street
Albany, New York 12207

RE: Request for IDA Extension of PILOT Commencement Date

Dear Ms. Staubach:

As discussed, the Pandemic related supply chains and shortage of workers have absolutely affected this project (especially as it started as the Pandemic was just ending). Some examples are:

- Shoring/Site work: Equipment parts were delayed 4 months delaying machines from working
- Concrete: Delays in materials and worker caused over a 3-month delay
- Materials: Many of the materials have been delayed because of shortages (e.g., drywall, gypcrete) and especially the electronic unit panels which have taken 18 months and are still not due to end of October.

That said, we expect substantial completion by this January 2024 and project to cash flow by end of 2024 (same 12 months bank gives to stabilize). The overall project is 6-9 months behind schedule. The numbers for the project have not changed, just the delay.

I am respectfully asking for an IDA Extension of PILOT Commencement Date to January 2024 (6 months) to match the delay.

Thanks and please let me know if you need anything else...

Sincerely,

Ron Stein

Ron Stein
TR Hackett LLC
Owner – Developer – Member
917-885-7108