

**RESOLUTION AUTHORIZING ASSIGNMENT AND ASSUMPTION  
40 STEUBEN LLC PROJECT**

A regular meeting of City of Albany Industrial Development Agency (the "Agency") was convened in public session at the offices 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 of the Agency 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 CONSENTING TO AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS WITH RESPECT TO THE ASSIGNMENT AND ASSUMPTION OF THE 40 STEUBEN LLC PROJECT.

WHEREAS, City of Albany Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of 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 industrial, manufacturing, warehousing, commercial, research and recreation 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 and install one or more "projects" (as defined in the Act) or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, on or about October 9, 2014 (the "Closing Date"), the Agency entered into a lease agreement dated as of October 1, 2014 (the "Lease Agreement") by and between the Agency and 40 Steuben LLC (the "Original Company") for the purpose of undertaking a project (the "Project") consisting of the following: (A) (1) the acquisition of an interest in an approximate 0.18 acre parcel of land located at 58 North Pearl Street (Tax Map # 76.34-2-18) in the City of Albany, Albany County, New York (the "Land"), together with an approximately 47,000 square foot building located thereon (the "Facility"), (2) the renovation and reconstruction of the Facility, and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property, including without limitation, tenant improvement and finish (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 by the Original Company, to constitute a mixed use retail/residential facility and to be leased by the Original Company to various commercial and residential tenants and 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 property taxes, real property transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease of the Project Facility to the Original Company pursuant to the Lease Agreement; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the "Closing"), (A) the Original Company executed and delivered to the Agency (1) a certain lease to agency dated as of October 1, 2014 (the "Lease to Agency") by and between the Original Company, as landlord, and the Agency, as tenant, pursuant to which the Original 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") for a lease term ending on December 31, 2035; (2) a certain license agreement dated as of October 1, 2014 (the "License to Agency") by and between the Original Company, as licensor, and the Agency, as licensee, pursuant to which the Original Company granted to the Agency (a) a license to enter upon the balance of the Land (the "Licensed Premises") for the purpose of undertaking and completing the Project and (b) in the event of an occurrence of an Event of Default by the Original Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement; and (3) a bill of sale dated as of October 1, 2014 (the "Bill of Sale to Agency"), which conveyed to the Agency all right, title and interest of the Original Company in the Equipment, (B) the Original Company and the Agency executed and delivered (1) a payment in lieu of tax agreement dated as of October 1, 2014 (the "Payment in Lieu of Tax Agreement") by and between the Agency and the Original Company, pursuant to which the Original 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 Original Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes, (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 Original 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") (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 Original Company obtained a loan in the principal sum of up to \$3,900,000 (the "Loan") from Berkshire Bank (the "Lender"), which Loan was secured by (1) a mortgage dated as of October 9, 2014 (the "Mortgage") from the Agency and the Original Company to the Lender, (2) an assignment of rents and leases dated as of October 9, 2014 (the "Assignment of Rents") from the Agency and the Original Company to the Lender and (3) a security agreement dated as of October 9, 2014 (the "Security Agreement") from the Agency and the Original Company to the Lender; and

WHEREAS, on or about October 6, 2023, 701 40 Steuben LLC, a limited liability company organized and existing under the laws of the State of New York (the "Assignment") informed the Agency pursuant to the request attached hereto as Exhibit A (the "Request") and an application (the "Assignment Application"), that the Original Company desires to convey the Project Facility and its interests in the Basic Documents to the New Company and in connection with such conveyance, provide for the assignment of the Basic Documents from the Original Company to the New Company, as described in the Request and the Assignment Application; and

WHEREAS, the Lease Agreement provides that the Original Company is prohibited from selling, leasing, transferring or otherwise conveying any part of the Project Facility without the prior written consent of the Agency; and

WHEREAS, in connection with the conveyance of the Project Facility, the Original Company and the New Company have also requested that the Agency execute documents providing for the following (the "Conveyance and Assignment Documents"): the consent by the Agency of the conveyance of the Project Facility and the assignment and assumption of the Basic Documents from the Original Company to the Assignment (the "Assignment and Assumption"); and

WHEREAS, in connection with the Request, the New Company will potentially be assuming the Loan; 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 execution and delivery of the Conveyance and Assignment Documents (collectively, the "Assignment Documents"); and

WHEREAS, pursuant to SEQRA, the Agency has reviewed the Request and the Assignment Application in order to make a determination as to whether the execution and delivery of the Assignment Documents are subject to SEQRA, and it appears that the Request and Assignment are not an "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 Assignment Application, the Agency hereby makes the following determinations:

(A) Pursuant to SEQRA, the approval of the Assignment Application is not an "Action" under SEQRA and therefore is not subject to SEQRA review by the Agency.

(B) The Agency will not be granting any mortgage recording tax exemption relating to the Assignment Application.

(C) That since compliance by the Agency with the Assignment Application will not result in the Agency providing more than \$100,000 of "financial assistance" (as such quoted term is defined in the Act) to the New Company, Section 859-a of the Act does not require a public hearing to be held with respect to the Assignment Application.

Section 2. The Agency hereby approves (A) the assignment to, and assumption by, the Assignment of all of the Original Company's interest in the Project Facility, and the Basic Documents, including but not limited to the benefits of the Lease Agreement and the Payment in Lieu of Tax Agreement and (B) the assumption by the Assignment of all obligations of the Original Company under the Basic Documents pursuant to an assignment and assumption agreement (the "Assignment and Assumption Agreement"); subject in each case, (1) receipt of confirmation that all real property taxes and payments in lieu of taxes required by the Project have been satisfied; (2) evidence of current certificates of insurance acceptable to the Agency; (3) receipt of confirmation from Agency counsel that no modifications shall result from the Assignment Application that result in any new tax relief for the Project (such as an extension of the term, increase in abatement or change in the Payment in Lieu of Tax Agreement); (4) receipt by Special Counsel of the written consent of the Lender or any other holder of any current mortgage on the Project Facility with respect to the Assignment Documents OR evidence that there are no security documents filed relating to the Project; (5) compliance with the terms and conditions contained in the Assignment and Assumption Agreement and the Basic Documents; (6) approval by counsel to the Agency of the form of the documents to be executed by the Agency in connection with the Assignment Documents, including the Assignment and Assumption Agreement; and (7) receipt by the Agency of its administrative fee relating to the Assignment Application, as reviewed by the Chair, Agency Counsel and Special Counsel, and all fees and expenses incurred by the Agency with respect to the Assignment Application, including the fees and expenses incurred by Agency counsel and Special Agency counsel with respect thereto.

Section 3. Subject to (A) satisfaction of the conditions contained in Section 2 hereof, including the condition that no modifications provide any new tax relief for the Project (such as an extension of the term, increase in abatement or change in the Payment in Lieu of Tax Agreement); and (B) the execution and delivery of the Assignment Documents by the other parties thereto, the Chair (or Vice Chair) of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Assignment Documents, 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 forms thereof approved by Counsel to the Agency, 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 4. 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 Assignment Application, 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 Assignment Application.

Section 5. 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.

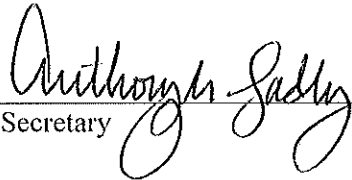
STATE OF NEW YORK                    )  
  ) SS.:  
COUNTY OF ALBANY                    )

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 23<sup>rd</sup> day of October, 2023.

  
Secretary

(SEAL)

EXHIBIT A

REQUEST

- SEE ATTACHED -



Redburn Development Partners  
204 Lafayette Street  
Schenectady, NY 12305

[www.redburndev.com](http://www.redburndev.com)

701 40 Steuben LLC  
204 Lafayette St. Suite 2  
Schenectady, NY 12305

October 6, 2023

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

RE: Request for Transfer of Existing Benefits to New Ownership

Dear Board Members:

Enclosed with this letter is a complete application requesting the transfer of existing financial assistance to a new ownership team. I am pleased to share that 701 40 Steuben LLC, an entity owned and operated by Redburn Development Partners, is under contract to purchase the real property located at 40 Steuben Place.

The purchase of 40 Steuben Place, a mixed-use project completed in 2014, will expand the existing Downtown Albany portfolio of Redburn Development Partners. The project features 29 apartments and more than 2,500 SF of street-level vacant commercial space.

We kindly request the existing benefits for this project be transferred as part of this acquisition. Without these benefits, the acquisition is not feasible. High utility and maintenance costs, in addition to rising interest rates, continue to create operating struggles. Furthermore, the Downtown Albany commercial leasing market has not fully recovered post-pandemic. The existing benefits allow us to offer a competitive rental rate, hopefully attracting a broader pool of potential businesses to the vacant storefront on North Pearl Street.

Our goal over the last nine years has been to grow our region's cities and towns through socially responsible development and community partnership. That remains our primary goal. The City of Albany Industrial Development Agency has consistently been a tremendous partner in Downtown Albany. We hope to continue that partnership with this project. Thank you for your consideration of this application.

Sincerely,

Joseph Perniciaro  
Redburn Development Partners



# Department of State Division of Corporations

## Entity Information

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### Entity Details

<b>ENTITY NAME:</b> 701 40 STEUBEN LLC	<b>DOS ID:</b> 7151940
<b>FOREIGN LEGAL NAME:</b>	<b>FICTITIOUS NAME:</b>
<b>ENTITY TYPE:</b> DOMESTIC LIMITED LIABILITY COMPANY	<b>DURATION DATE/LATEST DATE OF DISSOLUTION:</b>
<b>SECTION OF LAW:</b> LIMITED LIABILITY COMPANY LAW - 203 LIMITED LIABILITY COMPANY LAW - LIMITED LIABILITY COMPANY LAW	<b>ENTITY STATUS:</b> ACTIVE
<b>DATE OF INITIAL DOS FILING:</b> 10/06/2023	<b>REASON FOR STATUS:</b>
<b>EFFECTIVE DATE INITIAL FILING:</b> 10/06/2023	<b>INACTIVE DATE:</b>
<b>FOREIGN FORMATION DATE:</b>	<b>STATEMENT STATUS:</b> CURRENT
<b>COUNTY:</b> SCHENECTADY	<b>NEXT STATEMENT DUE DATE:</b> 10/31/2025
<b>JURISDICTION:</b> NEW YORK, UNITED STATES	<b>NFP CATEGORY:</b>

[ENTITY DISPLAY](#) [PRINT](#) [SHARE](#) [HELP](#) [CONTACT US](#) [FOIA](#) [SITEMAP](#)

### Service of Process on the Secretary of State as Agent

The Post Office address to which the Secretary of State shall mail a copy of any process against the corporation served upon the Secretary of State by personal delivery:

**Name:** 701 40 STEUBEN LLC

**Address:** 204 LAFAYETTE STREET, SUITE 2, SCHENECTADY, NY, UNITED STATES, 12305

Electronic Service of Process on the Secretary of State as agent: Not Permitted

### Chief Executive Officer's Name and Address

**Name:**

**Address:**

### Principal Executive Office Address

**Address:**

### Registered Agent Name and Address

**Name:**

**Address:**

### Registered Agent's Office Name and Address

**Name:**

**Address:**

Form caption

**Is The Entity A Farm Corporation: NO**

Stock Information

Share Name

Number of Shares

Value Per Share