

**RESOLUTION CONSENTING TO AGENCY STRAIGHT LEASE RESTRUCTURING AND
UNIFORM AGENCY PROJECT AGREEMENT CONFIRMATION
413 NORTH PEARL ASSOC 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 o'clock 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 AGENCY
STRAIGHT LEASE RESTRUCTURING AND UNIFORM AGENCY PROJECT
AGREEMENT CONFIRMATION OF THE 413 NORTH PEARL ASSOC 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, 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, pursuant to a closing on August 5, 2021 (the "Closing"), the Agency entered into a lease agreement dated as of August 1, 2021 (the "Lease Agreement") by and between the Agency and North Pearl Assoc LLC (the "Company"), in connection with a project (the "Project") for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately 1.52 acre parcel of land located at 425 North Pearl Street (Tax Map number: 65.16-3-16.1) in the City of Albany, Albany County, New York (the "Land"), together with an existing approximately 90,000 square foot, four-story building located thereon (the "Facility"), (2) the renovation, reconstruction and making exterior improvements, including off-site parking, to 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 80 unit residential apartment complex with approximately 13,500 square feet of commercial/retail space 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 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 Closing, (A) the Company executed and delivered to the Agency (1) a certain lease to agency dated as of August 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"); and (2) a certain bill of sale dated as of August 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 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 (2) a certain uniform agency project agreement dated as of August 1, 2021 (the "Uniform Agency Project Agreement") relating to the granting of the Financial Assistance by the Agency to the Company, (C) 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, (D) 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"), (E) the Agency and Redburn Property Services, LLC (the "Contractor") entered into (1) a certain agency indemnification agreement dated as of August 1, 2021 (the "Contractor Agency and Indemnification Agreement") by and between the Agency and the Contractor and (2) a certain recapture agreement dated as of August 1, 2021 (the "Contractor Section 875 GML Recapture Agreement") by and between the Agency and the Contractor, (F) the Agency executed and delivered to the Contractor a sales tax exemption letter (the "Contractor Sales Tax Exemption Letter") and (G) the Agency filed a Thirty-Day Sales Tax Report (the "Contractor Thirty-Day Sales Tax Report") and any additional report to the

Commissioner of the State Department of Taxation and Finance concerning the amount of sales tax exemption benefit for the Project (the "Additional Thirty-Day Project Report") (collectively, with the Lease Agreement, the "Basic Documents"); and

WHEREAS, in order to finance a portion of the costs of the Project, the Company obtained (A) a loan in the principal sum of up to \$13,200,000.00 (the "Building Loan") from Salisbury Bank and Trust Company, a Connecticut chartered bank (the "Lender"), which Building Loan was secured by (1) a building loan/permanent loan mortgage and security agreement dated as of August 5, 2021 (the "Building Mortgage") from the Agency and the Company to the Lender and (2) an assignment of rents and leases dated as of August 5, 2021 (the "Building Assignment of Rents") from the Agency and the Company to the Lender and (B) a loan in the principal sum of up to \$2,800,000 (the "Project Loan" and collectively with the Building Loan, the "Loan") from the Lender, which Project Loan was secured by (1) a project loan mortgage (the "Project Mortgage" and collectively with the Building Mortgage, the "Mortgage") dated as of August 5, 2021 from the Agency and the Company to the Lender and (2) an assignment of rents and leases dated as of August 5, 2021 (the "Project Assignment of Rents" and collectively with the Building Assignment of Rents, the "Assignment of Rents") from the Agency and the Company to the Lender; and

WHEREAS, the Company has approached the Agency and requested that the Agency consider a modification to the Basic Documents providing for the (A) early termination of the Basic Documents and (B) the confirmation of the Uniform Agency Project Agreement (collectively, the "Modification"); and

WHEREAS, the Agency desires to consider the Modification, subject to the terms and conditions contained on Schedule A attached; 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"), it appears that the Modification 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 Modification, the Agency hereby makes the following determinations:

(A) The Modification constitutes a "Type II action" pursuant to 6 NYCRR 617.5(c), (26), and therefore that, pursuant to 6 NYCRR 617.6(1)(i), the Agency has no further responsibilities under SEQRA with respect to the Modification;

(B) That since compliance by the Agency with the Modification 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 Company, Section 859-a of the Act does not require a public hearing to be held with respect to the Modification;

(C) 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; and

(D) It is desirable and in the public interest for the Agency to consider and approve the Modification.

Section 2. Subject to (A) compliance with the terms and conditions in the Basic Documents, (B) compliance with the terms and conditions contained in Schedule A; and (C) payment by the Company of all fees and expenses of the Agency in connection with the delivery of any documents providing for the Modification (collectively, the "Modification Documents"), including the fees of Agency Counsel and Special Agency Counsel, the Agency hereby (a) consents to the Modification and (b) determines to enter into the Modification Documents.

Section 3. Subject to the satisfaction of the conditions described in Section 2 hereof, the Chair or Vice Chair of the Agency is hereby authorized to execute and deliver the Modification Documents to the Company, 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 Modification 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 Modification Documents binding upon the Agency.

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 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

BUSINESS TERMS

1. Provide for the termination of the Underlying Lease and Lease Agreement.
2. The Uniform Agency Project Agreement will be confirmed and all obligations of the Company, including any and all representations and reporting requirements under the Uniform Agency Project Agreement, will not be impacted by the termination of the other Basic Documents.