

**RESOLUTION AUTHORIZING ADDITIONAL BENEFITS
AND AMENDING BASIC DOCUMENTS
745 BROADWAY ALBANY, L.L.C. 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 March 21, 2024 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:

Elizabeth Staubach	Chair
Lee E. Eck, Jr.	Vice Chair
Darius Shahinfar	Treasurer
Joseph Better	Member
John F. Maxwell	Member

ABSENT:

Christopher Betts	Member
Anthony Gaddy	Secretary

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Ashley Mohl	Interim Chief Executive Officer
Andrew Corcione	Chief Operating Officer
Renee McFarlin	Senior Economic Developer, Capitalize Albany Corporation
Michael Bohne	Communications & Marketing Manager, Capitalize Albany Corporation
Emma Fullem	Economic Development Specialist, Capitalize Albany Corporation
Cassidy Roberts	Program Assistant, Capitalize Albany Corporation
Marisa Franchini, Esq.	Agency Counsel
A. Joseph Scott, III, Esq.	Special Agency Counsel

The following resolution was offered by Darius Shahinfar, seconded by John Maxwell, to wit:

Resolution No. 0224-_____

RESOLUTION AUTHORIZING ADDITIONAL BENEFITS AND THE EXECUTION
BY CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY OF A CERTAIN
MODIFICATION AGREEMENT AND OTHER DOCUMENTS IN CONNECTION
WITH THE 745 BROADWAY ALBANY, L.L.C. 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 manufacturing, warehouse and 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 or about October 21, 2021 (the "Closing"), the Agency granted certain "financial assistance" within the meaning of the Act (the "Financial Assistance") in connection with a project (the "Project") being undertaken by the Agency for the benefit of 745 Broadway Albany, L.L.C. (the "Company") consisting of the following: (A)(1) the acquisition of an interest in an approximately 1.38 acre parcel of land located at 745 Broadway (currently tax map number 65.83-1-28) in the City of Albany, Albany County, New York (the "Land"), (2) the construction on the Land of an approximately 99,535 square foot, five (5) story building with approximately 90 parking spaces (collectively, the "Facility") and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible 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 constitute an approximately 80 unit residential apartment building to include approximately 2,400 square feet of commercial/retail space to be owned and operated by the Company 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 sales and use taxes, real property transfer taxes, mortgage recording taxes and real estate taxes (collectively, the "Financial Assistance"); and (C) the lease of the Project Facility to the Company pursuant to the terms of a lease agreement dated as of October 1, 2021 (the "Lease Agreement") by and between the Company and the Agency; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (A) the Company executed and delivered to the Agency (1) a certain lease to agency dated as of October 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 October 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) 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 Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement; and (3) a certain bill of sale dated as of October 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) certain payment in lieu of tax agreements dated as of October 1, 2021 (collectively, 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; (C) the Agency and the Company executed and delivered the uniform agency project agreement dated as of October 1, 2021 (the "Uniform Agency Project Agreement") by and between the Agency and the Company relating to the terms of the granting by the Agency of the Financial Assistance to the Company; (D) 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; (E) 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 (F) 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") (collectively with the Lease Agreement, the "Basic Documents"); and

WHEREAS, in connection of the Project, the Company obtained a loan in the principal sum of up to \$18,160,000 (the "Loan") from Chemung Canal Trust Company (the "Lender"), which Loan was secured by (A) a mortgage and security agreement with assignment of leases and rents dated as of the date of closing on the Loan (the "Mortgage") from the Agency and the Company to the Lender and (B) an assignment of leases and rents dated as of the date of closing on the Loan from the Agency and the Company to the Lender (the "Assignment of Rents"); and

WHEREAS, by resolution adopted by the members of the Agency on February 22, 2024 (the "Resolution Authorizing Public Hearing With Respect to Additional Benefits"), due to a request (the "Request") from the Company to provide (A) additional sales tax exemption benefits in the amount of \$100,000, (B) additional mortgage recording tax benefits in the amount of \$40,550 and (C) an extension of the Completion Date (as defined in the Lease Agreement) from March 31, 2024 to December 31, 2025, the Agency (A) authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Request and (B) 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 (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA") determined that the Request constitutes a "Type II Action" (as such quoted term is defined under SEQRA), and therefore that no further action with respect to the Request was required under SEQRA; and

WHEREAS, pursuant to the authorization contained in the Resolution Authorizing Public Hearing With Respect to Additional Benefits, the Interim Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the "Public Hearing") pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on February 28, 2024 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be posted on February 28, 2024 on the Agency's website www.albanyida.com and on a public bulletin board located at the Albany City Hall located at 24 Eagle Street in the City of Albany, Albany County, New York, (C) caused notice of the Public Hearing to be published on March 1, 2024 in Albany Times Union, a newspaper of general circulation available to the residents of the City of Albany, Albany County, New York, (D) conducted the Public Hearing on March 13, 2024 at 12:00 o'clock p.m., local time at the office of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York, (E) prepared a report of the Public Hearing (the "Public Hearing Report") fairly summarizing the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the Agency, and (F) caused a copy of the certified Public Hearing Resolution to be sent via certified mail return receipt requested on February 28, 2024 to the chief executive officers of the County and of each city, town, village and school district in which the Project Facility is to be located to comply with the requirements of Section 859-a of the Act; and

WHEREAS, the Agency has given due consideration to the Request, and to representations by the Company that (A) the granting by the Agency of the additional Financial Assistance (the "Additional Financial Assistance") with respect to the Project will be an inducement to the Company to complete the

Project in the City of Albany, New York and (B) the completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility located in the State of New York; and

WHEREAS, the Agency desires to encourage the Company to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of City of Albany, New York by undertaking the Project in the City of Albany, New York; and

WHEREAS, in order to consummate the Request and the granting of the Additional Financial Assistance described in the notice of the Public Hearing, the Agency proposes to (A) enter into a modification agreement of the Basic Documents and (B) various related documents and certificates relating to the Request (collectively, the "Additional Financing Documents");

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

Section 1. All action taken by the Interim Chief Executive Officer of the Agency with respect to the Public Hearing with respect to the Request is hereby ratified and confirmed.

Section 2. The law firm of Hodgson Russ LLP is hereby appointed Special Counsel to the Agency with respect to all matters in connection with the Request. Special Counsel for the Agency is hereby authorized, at the expense of the Company, to work with the Company, counsel to the Company and others to prepare, for submission to the Agency, all documents necessary to effect the transactions contemplated by this Resolution. Special Counsel has prepared and submitted an initial draft of the Additional Financing Documents to staff of the Agency.

Section 3. 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 constitutes a "project," as such term is defined in the Act;

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

(D) It is estimated at the present time that the costs of completing the Project Facility (collectively, the "Project Costs") will be approximately \$24,634,083;

(E) The completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility located in the State of New York;

(F) Although the Project constitutes a project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost, the Company has represented to the Agency that (i) the Project is located within census tract 11, which is contiguous to census tracts 1, 2, 8 and 25, which are considered to be distressed census tracts, and therefore, is in a "highly distressed area", as that term is defined in Section 854(18) of the Act, and (ii) completion of the Project will serve the public purposes of the Act by increasing the overall number of permanent, private sector jobs in the State of New York;

(G) The granting of the Financial Assistance by the Agency with respect to the Project will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of The City of Albany, New York and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act;

(H) The Agency has reviewed the Public Hearing Report and has fully considered all comments contained therein;

(I) The Project should receive the Financial Assistance in the form of exemption from sales tax and mortgage recording tax based on the description of expected public benefits to occur as a result of this Project, as described on Exhibit A attached hereto and failure by the Company to meet the expected public benefits will result in a recapture event; and

(J) It is desirable and in the public interest for the Agency to enter into the Additional Financing Documents.

Section 4. Subject to (A) execution and delivery of the Additional Financing Documents, (B) compliance with the terms and conditions in the Basic Documents, (C) evidence of current certificates of insurance acceptable to the Agency and (D) payment by the Company of all fees and expenses of the Agency in connection with the delivery of the Additional Financing Documents, including the administrative fee of the Agency and fees of Special Counsel, the Agency hereby (a) consents to the Additional Financing Documents and (b) determines to enter into the Additional Financing Documents.

Section 5. The form and substance of the Additional Financing 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 Additional Financing 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 Additional Financing 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	ABSTAIN
Lee E. Eck, Jr.	VOTING	YES
Darius Shahinfar	VOTING	YES
Anthony Gaddy	VOTING	ABSENT
Joseph Better	VOTING	YES
Christopher Betts	VOTING	ABSENT
John F. Maxwell	VOTING	YES

The foregoing Resolution was thereupon declared duly adopted.

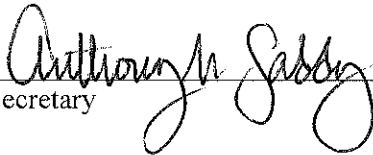
STATE OF NEW YORK)
) SS.:
COUNTY OF ALBANY)

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, including the Resolution contained therein, held on March 21, 2024 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 such proceedings of the Agency and of such Resolution set forth therein 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 28th day of March, 2024.


Secretary

(SEAL)

EXHIBIT A

**DESCRIPTION OF THE PROJECT EVALUATION
AND EXPECTED ADDITIONAL PUBLIC BENEFITS**

745 BROADWAY ALBANY, L.L.C. PROJECT

Pursuant to the City of Albany Industrial Development Agency's (the "Agency") Uniform Criteria for the Evaluation of Projects Policy, the following general uniform criteria were utilized by the "Agency" to evaluate and select the project for which the Agency can provide financial assistance. In the discussions had between the Project Beneficiary and the Agency with respect to the Project Beneficiary's request for Additional Financial Assistance from the Agency with respect to the Project, the Project Beneficiary has represented to the Agency that the Project is expected to provide the following benefits to the Agency and/or to the residents of the City of Albany, Albany County, New York (the "Public Benefits"):

Description of Evaluation Criteria/Benefit		Applicable to Project (indicate Yes or No)		Criteria Assessment/ Expected Additional Benefit
1.	Estimated value of tax exemptions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	The additional exemptions have been weighed against the cumulative benefits of the Project. NYS Sales and Compensating Use Tax Exemption: \$100,000 Mortgage Recording Tax Exemption: \$40,550.
2.	Private sector investment	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Project applicant expects to invest over \$24,634,083 of private investment in the Project.
3.	Likelihood of Project being accomplished in a timely fashion	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	High likelihood that Project will be accomplished in a timely fashion.