

**RESOLUTION AUTHORIZING ASSIGNMENT AND ASSUMPTION
FALLS EDGE APARTMENTS PROJECT**

A regular meeting of City of Rensselaer Industrial Development Agency (the “Agency”) was convened in public session at the office of the Agency located in the City of Rensselaer City Hall located at 62 Washington Street in the City of Rensselaer, Rensselaer County, New York on August 26, 2024 at 4:15 p.m., local time.

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

PRESENT:

Michael Stammel	Chairman
Andrew Kretzschmar	Secretary
William Bulnes	Member
Ray Stevens	Member

ABSENT:

John DeFrancesco	Vice Chairman
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AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

John J. Bonesteel	Chief Executive Officer/Treasurer
Madeline Rizzo	Executive Assistant
Shannon E. Wagner	Special Agency Counsel

The following resolution was offered by STAMMEL, seconded by BULNES, to wit:

Resolution No. 0824-01

**RESOLUTION CONSENTING TO AND AUTHORIZING THE EXECUTION AND
DELIVERY OF CERTAIN DOCUMENTS WITH RESPECT TO THE ASSIGNMENT
AND ASSUMPTION OF THE FALLS EDGE APARTMENTS PROJECT.**

WHEREAS, City of Rensselaer 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 235 of the 1974 Laws of New York, as amended, constituting Section 903-c 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, warehousing, research, civic, commercial and industrial 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 in November, 2016, the Agency entered into a lease agreement dated as of November 1, 2016 (the “Lease Agreement”) by and between the Agency and Falls Edge Apartments LLC (the “Original Company”), in connection with a project (the “Project”) for the benefit of the Original Company, said Project consisting of the following: (A) (1) the acquisition of a fee interest in an approximately 2.67 acre parcel of land located at 22 High Street, City of Rensselaer, New York (the “Land”), (2) the conversion of the current office space on the Land into twelve (12) market rate higher end apartments (the “Facility”) and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (the “Equipment”) (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, consisting of potential exemptions from certain sales and use taxes and mortgage recording taxes and real property taxes by way of a payment in lieu of tax agreement (the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale 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 a certain lease to agency dated as of November 1, 2016 (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”); (B) the Original Company and the Agency executed and delivered (1) a payment in lieu of tax agreement dated as of November 1, 2016 (the “Original 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, and (2) certain other documents related to the Project and the Financial Assistance, (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, and (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”) (collectively, with the Lease Agreement, the “Basic Documents”); and

WHEREAS, pursuant to a first amendment to payment in lieu of tax agreement dated as of December 1, 2017 (the “First Amendment,” and collectively with the Original Payment in Lieu of Tax Agreement, the “PILOT Agreement”), the Agency and the Original Company agreed to amend the Original Payment in Lieu of Tax Agreement to provide for payments in lieu of taxes (each a “PILOT Payment”) to begin on September 1, 2018 and end on September 1, 2027; and

WHEREAS, on or about August 8, 2024, pursuant to an application (the “Assignment Application”) submitted to the Agency by S&B Adirondack Properties 3, LLC, a limited liability company organized and existing under the laws of the State of New York (the “New Company”), the Agency has been requested to consent to the assignment by the Original Company of 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 Assignment Application; and

WHEREAS, the Lease Agreement provides the Facility may not be sold, leased, transferred or otherwise conveyed without the prior written consent of the Agency; and

WHEREAS, in connection with the conveyance of the Project Facility, the New Company has 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 New Company (the “Assignment and Assumption”); 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 Assignment and Assumption; and

WHEREAS, pursuant to SEQRA, the Agency has reviewed the Assignment Application in order to make a determination as to whether the Assignment and Assumption is subject to SEQRA, and it appears that the Assignment and Assumption is not an “Action” under SEQRA; and

WHEREAS, it is the Agency’s understanding that the amount of Financial Assistance to be provided to the New Company in connection with the Assignment and Assumption are not expected to be more than \$100,000, collectively; and

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF CITY OF RENSSELAER 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 and Assumption is not an “Action” under SEQRA and therefore is not subject to SEQRA review by the Agency.

(B) That since compliance by the Agency with the approval of the Assignment and Assumption 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 and Assumption.

Section 2. The Agency hereby approves (A) the assignment to, and the assumption by, the New Company 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 PILOT Agreement and (B) the assumption by the New Company 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 PILOT Payments 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 and Assumption that result in any new tax relief for the Project (such as an extension of the term, increase in abatement or change in the PILOT Agreement); (4) receipt by Agency Counsel of the written consent of the Original Company’s financial lender or any other holder of the current mortgage of the Project Facility with respect to the Assignment and Assumption 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 on connection with the Conveyance and Assignment Documents, including the Assignment and Assumption Agreement; and (7) receipt by the Agency of its administrative fee relating to the Assignment and Assumption, as reviewed by the Chairman and Agency Counsel, and all fees and expenses incurred by the Agency with respect to the Assignment and Assumption, including the fees and expenses incurred by 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 PILOT Agreement); and (B) the execution and delivery of the Conveyance and Assignment Documents by the other parties thereto, the Chairman, Vice Chairman or Chief Executive Officer of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Conveyance and Assignment Documents, and, where appropriate, the 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 Chairman, Vice Chairman or Chief Executive Officer shall approve, the execution thereof by the Chairman, Vice Chairman or the Chief Executive Officer 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 Conveyance and Assignment 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 Conveyance and Assignment Documents.

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:

Michael Stammel	VOTING	AYE
John DeFrancesco	VOTING	ABSENT
Andrew Kretschmar	VOTING	AYE
William Bulnes	VOTING	AYE
Ray Stevens	VOTING	AYE

The foregoing resolution was thereupon declared duly adopted.

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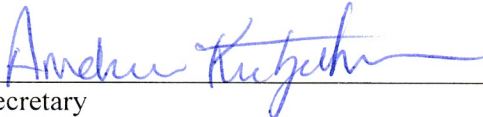
STATE OF NEW YORK)
) SS.:
COUNTY OF RENSSELAER)

I, the undersigned Secretary of City of Rensselaer Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the resolution contained therein, held on August 26, 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 such resolution contained therein 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 26th day of August, 2024.


Secretary

