RESOLUTION AUTHORIZING MORTGAGE
CAPITAL CITY PRODUCE LLC AND
3 E INDUSTRIAL ASSOC., LLC

A regular meeting of Rensselaer County Industrial Development Agency (the "Agency") was convened in public session remotely by conference call or similar service pursuant to Chapter 417 of the Laws of 2021 of New York State, effective September 2, 2021 through January 15, 2022, on January 13, 2022 at 4:00 o'clock 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:

Cynthia A. Henninger	Chairman
Ronald Bounds	Secretary/Treasurer
Douglas Baldrey	Member
John H. Clinton, Jr.	Member

ABSENT:

Michael Della Rocco	Vice Chairman
Renee Powell	Member

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Robert L. Pasinella, Jr.	Executive Director
Robin LaBrake	Assistant to the Director
Peter R. Kehoe, Esq.	Special Agency Counsel
Melissa C. Bennett, Esq.	Special Counsel

The following resolution was offered by Douglas Baldrey, seconded by John H. Clinton, Jr., to wit:

Resolution No. 0122-5

RESOLUTION AUTHORIZING THE EXECUTION OF MORTGAGES AND RELATED DOCUMENTS IN CONNECTION WITH A CERTAIN PROJECT FOR CAPITAL CITY PRODUCE LLC / 3 E INDUSTRIAL ASSOC., LLC AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, Rensselaer County 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 128 of the 1974 Laws of New York, as amended, constituting Section 903-d 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, 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, on or about February 2, 2021 (the "Closing"), the Agency undertook a project (the "Project"), for the benefit of 3 E Industrial Assoc., LLC (the "Real Estate Holding Company") and Capital City Produce LLC (the "Operating Company"), said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately 2.4 acres of real estate located at 3 E Industrial Parkway (tax map no. 111.51-1-3) in the City of Troy, Rensselaer County, New York (the "Land"), the renovation of an approximately 25,700 square foot existing commercial industrial building, together with related amenities and improvements (collectively, the "Facility"), and the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property not part of the Equipment (as such term is defined herein) (collectively, the "Facility Equipment") (the Land, the Facility and the Facility Equipment being collectively referred to as the "Company Project Facility"), which Company Project Facility is to be leased and subleased by the Agency to the Real Estate Holding Company and further subleased by the Real Estate Holding Company to the Operating Company, and (2) the acquisition and installation of certain equipment and personal property (the "Equipment", and together with the Company Project Facility, the "Project Facility"), all of the foregoing Project Facility to constitute a commercial facility to be used for the wholesale distribution and processing of produce and related products and associated uses and 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, mortgage recording taxes (subject to statutory limitations), real property taxes and real estate transfer taxes (collectively, the "Financial Assistance"); and (C) the lease of the Project Facility to the Real Estate Holding Company pursuant to a lease agreement dated as of February 1, 2021 (the "Lease Agreement") by and between the Agency and the Real Estate Holding Company and the lease of the Equipment to the Operating Company pursuant to an equipment lease agreement dated as of February 1, 2021 (the "Equipment Lease Agreement") by and between the Agency and the Operating Company; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement, (A) the Real Estate Holding Company executed and delivered to the Agency (1) a certain lease to agency dated as of February 1, 2021 (the "Lease to Agency" or the "Underlying Lease") by and between the Real Estate Holding Company, as landlord, and the Agency, as tenant, pursuant to which the Real Estate Holding Company leased to the Agency the Land and all improvements now or hereafter located on the Land (collectively, the "Leased Premises"), and (2) a bill of sale dated as of February 1, 2021 (the "Bill of Sale to Agency"), which conveyed to the Agency all right, title and interest of the Real Estate Holding Company in the Facility Equipment; (B) the Operating Company executed and delivered to the Agency (1) a bill of sale dated as of February 1, 2021 (the "Equipment Bill of Sale to Agency"), which conveyed to the Agency all right, title and interest of the Operating Company in the Equipment and (2) the Equipment Lease Agreement, pursuant to which the Operating Company leased the Equipment from the Agency; (C) the Real Estate Holding Company, the Operating Company and the Agency executed and delivered (1) a payment in lieu of tax agreement dated as of February 1, 2021 (the "Payment in Lieu of Tax Agreement") by and among the Agency, the Real Estate Holding Company and the Operating Company, pursuant to which the Real Estate Holding Company and the Operating Company agreed to pay certain payments in lieu of taxes with respect to the Project Facility, (2) a uniform project benefits agreement dated as of February 1, 2021 (the "Uniform Project Benefits Agreement") by and among the Agency, the Real Estate Holding Company and the Operating Company regarding the granting of the financial assistance and the potential recapture of such assistance and that complied with the requirements of Section 859-a(6) of the Act, and (3) a certain recapture agreement dated as of February 1, 2021 (the "Section 875 GML Recapture Agreement") by and among the Real Estate Holding Company and the Operating Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes; (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 filed with the New York State Department of Taxation and Finance the forms entitled "IDA Appointment of Project Operator or Agency for Sales Tax Purposes" (the form required to be filed pursuant to Section 874(9) of the Act) (the "Thirty-Day Sales Tax Report"); (F) the Agency and Tralongo Builders, Inc. (the "Contractor") entered into (1) a certain contractor agency indemnification agreement dated as of February 1, 2021 (the "Contractor Agency and Indemnification Agreement") by and between the Agency and the Contractor and (2) a certain contractor recapture agreement dated as of February 1, 2021 the "Contractor Section 875 GML Recapture Agreement") by and between the Agency and the Contractor; and (G) the Agency filed a Thirty-Day Sales Tax Report (the "Contractor Thirty-Day Sales Tax Report") with the New York State Department of Taxation and Finance (the above enumerated documents being collectively referred to as the "Original Basic Documents"); and

WHEREAS, the Agency, the Real Estate Holding Company, the Operating Company, and the Contractor entered into a certain modification agreement dated as of December 1, 2021 (the "Modification Agreement") to extend the appointment of the Real Estate Holding Company and the Operating Company, as agents, and the Contractor as sub-agent, of the Agency for sales and use tax purposes (the Modification Agreement together with the Original Basic Documents, the "Basic Documents"); and

WHEREAS, in order to finance the cost of the Project, the Real Estate Holding Company obtained from Saratoga National Bank & Trust Company (the "Lender") a loan in the amount of $2,500,000 (the "2021 Loan"); and

WHEREAS, to secure the Real Estate Holding Company's obligations with respect to the 2021 Loan, the Agency joined in the execution and delivery of (A) a mortgage and security agreement dated February 2, 2021 (the "2021 Mortgage") from the Real Estate Holding Company and the Agency in favor of the Lender, which 2021 Mortgage granted to the Lender a lien on and security interest in the Project Facility and assigned to the Lender all of their respective interest in, to and under all leases affecting the Project Facility (other than the Underlying Lease and this Lease Agreement) and the rents and other amounts payable thereunder; and

WHEREAS, in order to obtain additional financing for the Project, the Real Estate Holding Company obtained a bridge loan in the aggregate principal sum of $2,000,000 (the "Bridge Loan") from the Lender; and

WHEREAS, in order to obtain financing to repay the Bridge Loan, the Real Estate Holding Company will obtain a loan in the aggregate principal sum of $2,056,000 (the "504 Loan") from Empire State Certified Development Corporation ("ESCDC"); and

WHEREAS, in order to secure the Bridge Loan, the Real Estate Holding Company executed and delivered to the NYBDC Local Development Corporation ("NYBDC") a mortgage dated February 2, 2021 (the "Bridge Loan Mortgage"), which Bridge Loan Mortgage was simultaneously assigned to the Lender and which Bridge Loan Mortgage granted to Lender a second mortgage lien on and security interest in the Project Facility and assigned to Lender all leases and rents relating to the Project Facility (other than the Underlying Lease and this Lease Agreement) during the term of the Bridge Loan; and

WHEREAS, in order to secure the 504 Loan, the Real Estate Holding Company will execute and deliver to the ESCDC (A) a second mortgage upon completion of the Project (the "SBA Mortgage"), which SBA Mortgage will be simultaneously assigned to the U.S. Small Business Administration (the "SBA") and which SBA Mortgage shall grant to SBA a second mortgage lien on and security interest in the Project Facility intended to satisfy and replace the Bridge Loan as of the date of the sale of the SBA Mortgage debenture and assigns to SBA all leases and rents relating to the Project Facility (other than the Underlying Lease and this Lease Agreement); and (B) such other documents as may be requested by ESCDC/SBA in connection with the 504 Loan, including but not limited to the 2022 Security Agreement (as hereinafter defined); and

WHEREAS, the Agency granted a mortgage recording tax exemption with respect to the recording of the 2021 Mortgage in the office of the County Clerk of Albany County, which constituted only a portion of the mortgage recording tax exemption constituting the Financial Assistance authorized by the Agency; and

WHEREAS, due to an additional construction costs, the Real Estate Holding Company intends to obtain an additional loan from the Lender in the approximate amount of $427,000 (the "2022 Loan"); and

WHEREAS, to secure the Real Estate Holding Company's obligations with respect to the 2022 Loan, the Real Estate Holding Company has requested that the Agency join in the execution and delivery of one or more mortgages, assignments of leases and rents and such other loan documents satisfactory to the Agency, upon advice of counsel, in both form and substance (the "2022 Mortgages"), which 2022 Mortgages will continue to grant to the Lender a lien on and security interest in the Project Facility and will continue to assign to the Lender all of their respective interest in, to and under all leases affecting the Project Facility (other than the Underlying Lease and this Lease Agreement) and the rents and other amounts payable thereunder; and

WHEREAS, the Real Estate Holding Company has requested that the Agency grant a mortgage recording tax exemption with respect to the recording of the 2022 Mortgages in the office of the County Clerk of Albany County, with respect to the 2022 Loan Amount, which collectively with the exemption related to the 2021 Mortgage will not to exceed the mortgage recording tax exemption constituting the Financial Assistance previously authorized by the Agency; and

WHEREAS, to further secure the Real Estate Holding Company's obligations with respect to the 504 Loan, the ESCDC/SBA has requested that the Agency join in the execution and delivery of (A) a security agreement (the "2022 Security Agreement") from the Real Estate Holding Company and the Agency in favor of ESCDC/SBA, which 2022 Security Agreement will grant to ESCDC/SBA a lien on and security interest in a portion of the Project Facility consisting of collateral as described therein; 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 (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), the Agency must determine the potential environmental significance of the execution and delivery of the 2022 Mortgages and the 2022 Security Agreement (the "Transaction");

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

Section 1. Pursuant to SEQRA, the Agency hereby finds and determines that:

(A) Pursuant to Section 617.5(c)(26) of the Regulations, the Transaction is a "Type II action" (as said quoted term is defined in the Regulations); and

(B) Therefore, the Agency hereby determines that no environmental impact statement or any other determination or procedure is required under the Regulations with respect to the Transaction.

Section 2. The Agency, based upon the representations made by the Real Estate Holding Company and the Operating Company to the Agency in the Basic Documents, 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 execution and delivery of the 2022 Mortgages and the 2022 Security Agreement will facilitate the financing of the Project and promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Rensselaer County and the State of New York and will serve the public purposes of the Act.

Section 3. In consequence of the foregoing and subject to payment by the Real Estate Holding Company and the Operating Company of all fees and expenses of the Agency in connection with the delivery of the 2022 Mortgages and the 2022 Security Agreement, including fees of Special Counsel, the Agency hereby approves the execution and delivery of the 2022 Mortgages and the 2022 Security Agreement.

Section 4. Subject to the satisfaction of the requirements of Section 3 hereof, the Chairman (or Vice Chairman) and the Executive Director of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the 2022 Mortgages and the 2022 Security Agreement, 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 presented to Agency Special Counsel with such changes, variations, omissions and insertions as the Chairman, Vice Chairman and/or the Executive Director shall approve upon consultation with Agency Special Counsel, the execution thereof by the Chairman, Vice Chairman and/or the Executive Director to constitute conclusive evidence of such approval.

Section 5. 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 2022 Mortgages and the 2022 Security Agreement, 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 2022 Mortgages and the 2022 Security Agreement binding upon the Agency.

Section 6. Neither the members nor officers of the Agency, nor any person executing the 2022 Mortgages and the 2022 Security Agreement on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution, issuance or delivery thereof or the transaction contemplated thereby.

Section 7. The Chairman, Vice Chairman and/or Executive Director of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Real Estate Holding Company and the Operating Company, and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

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:

Cynthia A. Henninger	VOTING	AYE
Michael Della Rocco	VOTING	ABSENT
Ronald Bounds	VOTING	AYE
Douglas Baldrey	VOTING	AYE
Renee Powell	VOTING	ABSENT
John H. Clinton, Jr.	VOTING	AYE

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned (Assistant) Secretary of Rensselaer County 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 January 13, 2022 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"), as modified by Chapter 417 of the Laws of 2021 of New York State (effective September 2, 2021 through January 15, 2022), 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 13th day of January, 2022.

Ronald W. Bounds
Secretary

(SEAL)

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