

Date: August 22, 2019

At a meeting of the Town of Hempstead Industrial Development Agency (the “Agency”), held at Town Hall Pavilion, 1 Washington Street, Hempstead, New York 11550 on the 22nd day of August, 2019, the following members of the Agency were:

Present: Florestano Girardi, Chairman
James G. Marsh, Esq., Vice-Chairman
Rev. Dr. Eric C. Mallette, Secretary
Gerilyn Smith, Treasurer
Jack Majkut, Member
John A. Ardito, Esq., Member

Recused:

Absent:

Also Present: Frederick E. Parola, Chief Executive Officer
Michael Lodato, Deputy Executive Director
Edie Longo, Chief Financial Officer
Lorraine Rhoads, Agency Administrator
Arlyn Eames, Deputy Financial Officer
John Ryan, Esq., Agency Counsel
William F. Weir, Esq., Transaction Counsel

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to acquisition of a leasehold interest in a certain industrial development facility more particularly described herein (Beechwood Merrick LLC 2019 Facility), and the leasing of the Facility to Beechwood Merrick LLC

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

Voting Aye

Voting Nay

RESOLUTION OF THE TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE APPOINTMENT OF BEECHWOOD MERRICK LLC, A DELAWARE LIMITED LIABILITY COMPANY, ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF BEECHWOOD MERRICK LLC AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING AS AGENT OF THE AGENCY FOR THE PURPOSE OF ACQUIRING, DEMOLISHING, CONSTRUCTING, EQUIPPING AND FURNISHING THE FACILITY, APPROVING THE ACQUISITION, DEMOLITION, CONSTRUCTION, EQUIPPING AND FURNISHING OF SUCH INDUSTRIAL DEVELOPMENT FACILITY AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE FACILITY AND APPROVING THE FORM, SUBSTANCE AND EXECUTION OF RELATED DOCUMENTS

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 529 of the Laws of 1971 of the State of New York, as the same may be amended from time to time (collectively, the “**Act**”), the Town of Hempstead Industrial Development Agency was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, Beechwood Merrick LLC, a limited liability company organized and existing under the laws of the State of Delaware, on behalf of itself and/or the principals of Beechwood Merrick LLC and/or an entity formed or to be formed on behalf of the foregoing (collectively, the “**Company**”), has applied to the Town of Hempstead Industrial Development Agency (the “**Agency**”), for assistance in the acquisition of an approximately 5.876 acre parcel of land, located at 695 Merrick Avenue, Westbury, New York 11590 (the “**Land**”), (i) the demolition of an existing approximately 90,520 square foot building thereon, and (ii) the construction, equipping and furnishing of an approximately 400,000 square foot, 7-story building containing 210 apartment units for rent under twelve (12) month leases (consisting of approximately eighteen (18) studios, thirty (30) 1-bedroom apartments, fifty (50) 1-bedroom apartments with a den, seventy-eight (78) 2-bedroom apartments, and thirty-four (34) 3-bedroom apartments) and 27 hotel suites (studio units) for an extended stay hotel (for a total of 237 rental units) with various amenities including, but not limited to, a gym, a game and billiards room, a library, a swimming pool, a sundries shop for tenants and a restaurant open to tenants and to the public, all located thereon (the “**Improvements**” and “**Equipment**”; and, together with the Land, the “**Facility**”), all to be leased by the Agency to the Company and subleased by the Company to future tenants for use as rental apartments and an extended stay hotel (the “**Project**”); and

WHEREAS, the Agency, by resolution duly adopted on March 28, 2019 (the “**Inducement Resolution**”), decided to proceed under the provisions of the Act; and

WHEREAS, the Agency will acquire a leasehold interest in the Land and the Improvements pursuant to a certain Company Lease Agreement, dated as of August 1, 2019, or such other date as the Chairman, the Chief Executive Officer or the Deputy Executive Director of the Agency and counsel to the Agency shall agree (the “**Company Lease**”), by and between the Company and the Agency; and

WHEREAS, the Agency will acquire title to the Equipment pursuant to a certain Bill of Sale, dated the Closing Date (as defined in the hereinafter defined Lease Agreement) (the “**Bill of Sale**”), from the Company to the Agency; and

WHEREAS, the Agency will sublease and lease the Facility to the Company pursuant to a certain Lease and Project Agreement, dated as of August 1, 2019 or such other date as the Chairman, the Chief Executive Officer or the Deputy Executive Director of the Agency and counsel to the Agency shall agree (the “**Lease Agreement**”), by and between the Agency and the Company; and

WHEREAS, the Agency required the Company to provide to the Agency a feasibility report (the “**Feasibility Study**”), together with such letters or reports from interested parties and governmental agencies or officials (the “**Letters of Support**”; and together with the Feasibility Study, the “**Requisite Materials**”) to enable the Agency to make findings and determinations that the Facility qualifies as a “project” under the Act and that the Facility satisfies all other requirements of the Act, and such Requisite Materials are listed below and attached as Exhibit C to the Inducement Resolution:

1. Rental Development Opportunities 695 Merrick Avenue, Westbury, New York, dated January, 2019, by Robert L. Siegel & Associates, Inc.;
2. New York Law Journal Article, dated March 22, 2017 on Eligibility of Residential Developments for IDA Benefits by Anthony Guardino, Esq.; and
3. Ryan et al. v. Town of Hempstead Industrial Development Agency et al.; and

WHEREAS, the Agency’s Uniform Tax Exemption Policy (“**UTEP**”), which such UTEP is annexed to the Inducement Resolution as Exhibit D, provides for the granting of financial assistance by the Agency for housing projects pursuant to Section I.A.(II); and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company consistent with the policies of the Agency, in the form of (i) exemptions from mortgage recording taxes for one or more mortgages securing an amount presently estimated to be \$95,000,000 but not to exceed \$100,000,000 in connection with the financing of the acquisition, demolition, construction, equipping and furnishing of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, demolishing, constructing, equipping and furnishing the Facility, (ii) exemptions from sales and use taxes in an approximate amount not to exceed \$5,649,375, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the

Facility, and (iii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit A hereof), consistent with the policies of the Agency; and

WHEREAS, as security for a loan or loans (as such term is defined in the Lease Agreement), the Agency and the Company will execute and deliver to a lender or lenders not yet determined (collectively, the “**Lender**”), a mortgage or mortgages (the “**Mortgage**”), and such other loan documents satisfactory to the Agency, upon advice of counsel, in both form and substance, as may be reasonably required by the Lender, to be dated a date to be determined, in connection with the financing, any refinancing or permanent financing of the costs of the acquisition, demolition, construction, equipping and furnishing of the Facility (collectively, the “**Loan Documents**”); and

WHEREAS, the Agency has given due consideration to the application of the Company to the Agency for financial assistance (the “**Application**”) and to representations of the Company therein; and

WHEREAS, the Agency’s approval of this Project is with the express qualification that the Company must provide evidence of site plan approval for the Facility prior to closing the straight-lease transaction (the “**Closing Conditions**”); and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated by the leasing of the Facility by the Agency to the Company.

NOW, THEREFORE, BE IT RESOLVED by the Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. In connection with the acquisition, demolition, construction, equipping and furnishing of the Facility the Agency hereby makes the following determinations and findings based upon the Agency’s review of the information provided by the Company with respect to the Facility, including, the Company’s Application, the Requisite Materials and other public information:

(a) There is a lack of safe, clean and modern rental housing in the Town of Hempstead;

(b) Such lack of rental housing has resulted in residents leaving the Town of Hempstead and therefore adversely affecting businesses, retailers, banks, financial institutions, insurance companies, health and legal services providers and other merchants in the Town of Hempstead and otherwise adversely impacting the economic health and well-being of the residents of the Town of Hempstead and the tax base of the Town of Hempstead;

(c) The Facility, by providing such housing will enable persons to remain in the Town of Hempstead and thereby to support the businesses, retailers, banks, and other financial institutions, insurance companies, health care and legal services providers and other merchants in the Town of Hempstead which will increase the economic health and well-being of the residents of the Town of Hempstead, help preserve and increase permanent private sector jobs in furtherance of the Agency’s public purposes as set forth in the Act, and

therefore the Agency finds and determines that the Facility is a commercial project within the meaning of Section 854(4) of the Act;

(d) The Facility will provide services, i.e., rental housing, which but for the Facility, would not otherwise be reasonably accessible to the residents of the Town of Hempstead.

Section 2. The Agency hereby finds and determines:

(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; and

(b) The Facility constitutes a “project” and a “commercial facility” as such terms are defined in the Act; and

(c) The acquisition, demolition, construction, equipping and furnishing of the Facility and the leasing and subleasing of the Facility to the Company will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Town of Hempstead, and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(d) The acquisition, demolition, construction, equipping and furnishing of the Facility is reasonably necessary to induce the Company to maintain and expand its business operations in the State of New York; and

(e) Based upon the representations of the Company, the transactions contemplated by the Lease Agreement shall not result in the removal of any facility or plant if any Facility occupant(s) from one area of the State to another area of the State or in the abandonment of one or more facilities or plants of the Facility occupant(s) located within the State; and

(f) Based upon representations of the Company and counsel to the Company, the Facility conforms with the local zoning laws and planning regulations of the Town of Hempstead, Nassau County, and all regional and local land use plans for the area in which the Facility is located; and

(g) It is desirable and in the public interest for the Agency to sublease the Land and the Improvements and to lease the Equipment to the Company; and

(h) The Company Lease will be an effective instrument whereby the Agency leases the Land and the Improvements from the Company; and

(i) The Lease Agreement will be an effective instrument whereby the Agency will sublease and lease the Facility to the Company, the Agency and the Company set forth the terms and conditions of their agreement regarding payments-in-lieu of taxes, the Company agrees to comply with all Environmental Laws (as defined therein) applicable to

the Facility and will describe the circumstances in which the Agency may recapture some or all of the benefits granted to the Company; and

(j) The Loan Documents, to which the Agency is a party, will be effective instruments whereby the Agency and the Company agree to secure the loan made to the Company by the Lender.

Section 3. The Agency has assessed all material information included in connection with the Company's application for financial assistance, including but not limited to, the cost-benefit analysis prepared by the Agency and such information has provided the Agency a reasonable basis for its decision to provide the financial assistance described herein to the Company.

Section 4. In consequence of the foregoing and upon the Company completing the Closing Conditions, the Agency hereby determines to: (i) lease the Land and the Improvements from the Company pursuant to the Company Lease, (ii) execute, deliver and perform the Company Lease, (iii) lease and sublease the Facility to the Company pursuant to the Lease Agreement, (iv) execute, deliver and perform the Lease Agreement, (v) grant a mortgage lien on and security interest in and to the Facility pursuant to the Mortgage, (vi) execute, deliver and perform the Mortgage, and (vii) execute, deliver and perform the Loan Documents to which the Agency is a party, and such other related documents or certificates as may be necessary or appropriate to effect the loan

Section 5. The Agency is hereby authorized to acquire the real property and personal property described in Exhibit A and Exhibit B, respectively, to the Lease Agreement and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition are hereby approved, ratified and confirmed.

Section 6. The Agency is hereby further authorized to execute and deliver the Loan Documents in connection with the financing of the costs of acquiring, demolishing, constructing, equipping and furnishing the Facility and any future Loan Documents in connection with any future refinancing or permanent financing of such costs of acquiring, demolishing, constructing, equipping and furnishing of the Facility without the need for any further or future approvals of the Agency.

Section 7. The Agency hereby authorizes and approves the following economic benefits to be granted to the Company in connection with the acquisition, demolition, construction, equipping and furnishing of the Facility in the form of (i) exemptions from mortgage recording taxes for one or more mortgages securing an amount presently estimated to be \$95,000,000 but not to exceed \$100,000,000 for the acquisition, demolition, construction, equipping and furnishing of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, demolishing, constructing, equipping and furnishing the Facility, (ii) exemptions from sales and use taxes in an approximate amount not to exceed \$5,649,375, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility and (iii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit A hereof).

Section 8. The Company is herewith and hereby appointed the agent of the Agency to acquire, demolish, construct, equip and furnish the Facility. The Company is hereby empowered to delegate its status as agent of the Agency to its agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Company may choose in order to acquire, demolish, construct, equip and furnish the Facility. The Agency hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Company as agents of the Agency solely for purposes of making purchases or leases of goods, services and supplies to the Facility, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Company, as agent of the Agency, shall be deemed to be on behalf of the Agency and for the benefit of the Facility. This agency appointment expressly excludes the purchase by the Company of any motor vehicles, including any cars, trucks, vans or buses which are licensed by the Department of Motor Vehicles for use on public highways or streets. The Company shall indemnify the Agency with respect to any transaction of any kind between and among the agents, subagents, contractors, subcontractors, materialmen, vendors and/or suppliers and the Company, as agent of the Agency. The aforesaid appointment of the Company as agent of the Agency to acquire, demolish, construct, equip and furnish the Facility shall expire at the earlier of (a) the completion of such activities and improvements, (b) a date which the Agency designates, or (c) the date on which the Company have received exemptions from sales and use taxes in an amount not to exceed \$5,649,375 in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility; provided however, such appointment may be extended at the discretion of the Agency, upon the written request of the Company if such activities and improvements are not completed by such time. The aforesaid appointment of the Company is subject to the execution of the documents contemplated by this resolution.

Section 9. The Company is hereby notified that it will be required to comply with Section 875 of the Act. The Company is further notified that the exemption of sales and use tax provided pursuant to the Act and the appointment of the Company as agent of the Agency pursuant to this Authorizing Resolution is subject to termination and recapture of benefits pursuant to Sections 859-a and 875 of the Act and the recapture provisions of the Lease Agreement.

Section 10. The form and substance of the Company Lease and the Lease Agreement and the Loan Documents (each in substantially the forms presented to or approved by the Agency and which, prior to the execution and delivery thereof, may be redated and renamed) are hereby approved.

Section 11.

(a) The Chairman, the Chief Executive Officer, the Chief Financial Officer or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Company Lease, the Lease Agreement and the Loan Documents to which the Agency is a party, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, the Chief Executive Officer, the Chief Financial Officer or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman and counsel to the Agency,

necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the “**Agency Documents**”). The execution thereof by the Chairman, the Chief Executive Officer, the Chief Financial Officer or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, the Chief Executive Officer, the Chief Financial Officer or any member of the Agency are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 12. 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 Agency Documents, and to execute and deliver all such additional certificates, instruments and documents, 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 Agency Documents binding upon the Agency.

Section 13. Any expenses incurred by the Agency with respect to the Facility shall be paid by the Company. The Company shall agree to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Facility.

Section 14. This resolution shall take effect immediately.

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


We, the undersigned Chief Executive Officer and Chairman of the Town of Hempstead Industrial Development Agency, DO HEREBY CERTIFY:

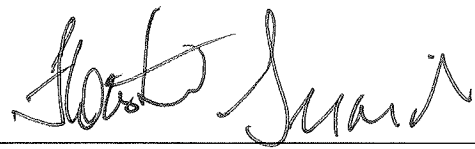
That we have compared the annexed extract of the minutes of the meeting of the Town of Hempstead Industrial Development Agency (the “Agency”), including the resolutions contained therein, held on August 22, 2019, with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Agency Documents contained in this transcript of proceedings are each in substantially the form presented to the Agency and/or approved by said meeting.

WE FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with the New York Open Meetings Law, constituting Chapter 511 of the Laws of 1976 of the State of New York, that all members of said Agency had due notice of said meeting and that the meeting was all respects duly held.

IN WITNESS WHEREOF, we have hereunto set our hands as of the 22nd day of August, 2019.

By: 
Frederick E. Parola
Chief Executive Officer

By: 
Florestano Girardi
Chairman