

**Motion By:**

**Seconded By:**

D. Jones  
L. Bolzner

### **RESOLUTION**

(Assignment of FCP Driving Park LLC Project to 1001 Driving Park LLC)  
OSC Code 2602-22-038A

A regular meeting of the County of Monroe Industrial Development Agency (the "Agency"), was held at the Agency's Offices, 50 West Main Street, Rochester, New York 14614, on January 17, 2023 at 12:00 p.m.

After the meeting had been duly called to order, the Chair announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to a certain Project more particularly described below.

RESOLUTION OF THE COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") AUTHORIZING THE ASSIGNMENT BY FCP DRIVING PARK LLC OF CERTAIN FINANCIAL ASSISTANCE AND DOCUMENTS (EACH AS DEFINED BELOW) IN CONNECTION WITH A CERTAIN PROJECT LOCATED AT 25-65 PHIL BANKS WAY IN THE CITY OF ROCHESTER, NEW YORK, TO 1001 DRIVING PARK, LLC OR A RELATED ENTITY FORMED OR TO BE FORMED; AND THE EXECUTION OF RELATED DOCUMENTS.

WHEREAS, by Title I of Article 18-A of the General Municipal Law of the State of New York, as amended and Chapter 55 of the Laws of 1972 of the State of New York (collectively, the "Act"), the 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, by resolution duly adopted on January 19, 2021, the Agency appointed **FCP DRIVING PARK LLC**, a New York limited liability company ("Assignor"), the true and lawful agent of the Agency to undertake a certain project (the "Project") consisting of: (A) the acquisition of a leasehold interest in a portion of an approximately 12.48-acre parcel of land located at 25-65 Phil Banks Way in the City of Rochester, New York 14613 (the "Land"); (B) the construction on the Land of an approximately 40,000 square-foot manufacturing building (the "Improvements"); and (C) the acquisition and installation therein, thereon or thereabout of certain machinery, equipment and related personal property (the "Equipment" and, together with the Land and the Improvements, the "Facility"); all for use by Farmer Jon's Popcorn LLC (the "Tenant") in the production of bagged and packaged popcorn; and

WHEREAS, the Agency and Assignor executed and delivered (i) a certain Lease Agreement, dated as of February 1, 2021, by and between the Agency and Assignor, pursuant to which Assignor leased the Facility to the Agency (the "Lease Agreement"), a memorandum of which (the "Memorandum of Lease") was recorded in the Monroe County Clerk's Office on February 16, 2021 in Liber 12463 of Deeds, at Page 411; (ii) a certain Leaseback Agreement, dated as of February 1, 2021, by and between the Agency and Assignor, pursuant to which the Agency leased the Facility back to Assignor (the "Leaseback Agreement"), a memorandum of

which was recorded in the Monroe County Clerk's Office on February 16, 2021 in Liber 12463 of Deeds, at Page 415 (the "Memorandum of Leaseback") and (iii) a certain Payment-In-Lieu-Of-Tax Agreement, dated as of February 1, 2021, by and between the Agency and Assignor (the "PILOT Agreement"; and, together with the Lease Agreement, Memorandum of Lease, Leaseback Agreement and the Memorandum of Leaseback, the "Documents"); and

WHEREAS, pursuant to the Documents, the Agency provided financial assistance (the "Financial Assistance") to Assignor in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Facility, (b) a partial mortgage recording tax exemption for financing related to the Project and (c) a partial real property tax abatement structured through the PILOT Agreement; and

WHEREAS, by Application for Assumption, dated November 23, 2022, Assignor has requested the Agency's approval of the sale of the Facility and assignment of the Financial Assistance and the Documents to 1001 Driving Park, LLC, or a related entity formed or to be formed (collectively, the "Company"); and

WHEREAS, Assignor and the Company represent that the sale of the Facility to the Company will not in any way change the use of the Facility and that the Facility will continue to constitute a "project" as such quoted term is defined in the Act; and

WHEREAS, the Agency now desires to adopt a resolution: (i) approving the sale of the Facility, (ii) approving the assignment of the Financial Assistance and the Documents to the Company and (iii) approving the execution of any and all documents necessary to effectuate the assignment of the Financial Assistance and the Documents.

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

Section 1. The Agency hereby consents to the sale of Assignor's rights, title and interests in and to the Facility to the Company.

Section 2. The Agency hereby consents to the assignment of the Financial Assistance and the Documents from Assignor to the Company.

Section 3. The Executive Director, Deputy Director, Chairman or Vice Chairman of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver any and all documents necessary to effectuate the above-described assignments and continuation of the Financial Assistance and the Documents with respect to the Facility.

Section 4. This resolution shall take effect immediately.

*[Remainder of Page Intentionally Left Blank]*

The question of the adoption of the foregoing Resolution was duly put to vote on roll call, which resulted as follows:

	<u><i>Yea</i></u>	<u><i>Nay</i></u>	<u><i>Absent</i></u>	<u><i>Abstain</i></u>
Jay Popli	X			
Troy Milne	X			
Lisa Bolzner	X			
Joseph Alloco			X	
Rhett King	X			
Norman Jones	X			
Ann L. Burr	X			

The Resolutions were thereupon duly adopted.



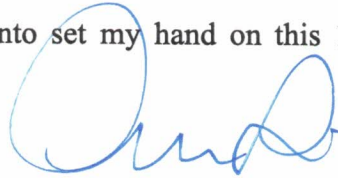
STATE OF NEW YORK )  
COUNTY OF MONROE ) ss.:

I, the undersigned Executive Director of the County of Monroe Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the County of Monroe Industrial Development Agency (the "Agency"), including the resolutions contained therein, held on January 17, 2023, with the original thereof on file in my office, 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.

I 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 Sections 103 and 104 of the New York Public Officers Law (Open Meetings Law) that all members of the Agency had due notice of the meeting and that the meeting was in all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand on this 17<sup>th</sup> day of January, 2023.



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Ana J. Liss, Executive Director