

Motion By:

J. Alloco

Seconded By:

A. Meleo

RESOLUTION

(Assignment of Apex Rochester, LLC Project)
OSC Code 2602-21-059A

A regular meeting of the County of Monroe Industrial Development Agency (the "Agency"), was held via Zoom on November 16, 2021 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 APEX ROCHESTER, LLC OF CERTAIN FINANCIAL ASSISTANCE IN CONNECTION WITH A CERTAIN PROJECT LOCATED AT 380 JOHN STREET IN THE TOWN OF HENRIETTA, NEW YORK, TO HARRISON STREET REAL ESTATE, 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, APEX ROCHESTER, LLC ("Assignor") owns a fee interest in property located at 380 John Street in the Town of Henrietta, New York and the Agency, by resolution dated March 19, 2019 (the "2019 Resolution"), approved certain Financial Assistance (as defined below) to Assignor in connection with a certain project (the "Project") consisting of: (A) the acquisition of a leasehold or subleasehold interest in an approximately 14-acre parcel of land located at 380 John Street (formerly known as 10-284 Colony Manor Drive) in the Town of Henrietta, New York (the "Land"); (B)(i) the demolition of the existing 16 structures on the Land and (ii) the construction in its place of an approximately 445,000 square-foot, 7-story, 300-unit/935-bed student housing facility featuring 14,000 square feet of modern amenities available 24/7 to its residents (collectively, the "2019 Improvements"); and (C) the acquisition and installation therein, thereon or thereabout of certain machinery, equipment and related personal property (the "2019 Equipment" and, together with the Land and the 2019 Improvements, the "2019 Facility"); and

WHEREAS, the Agency and the Assignor executed and delivered (i) a certain Lease Agreement, dated as of May 15, 2019, by and between the Company and the Agency, pursuant to which the Company leased the 2019 Facility to the Agency (the "Existing Lease Agreement"), a memorandum of which (the "Existing Memorandum of Lease") was recorded in the Monroe County Clerk's Office on May 20, 2019 in Liber 12185 of Deeds, at Page 265; and (ii) a certain

Leaseback Agreement, dated as of May 15, 2019, by and between the Agency and the Company, pursuant to which the Agency leased the 2019 Facility back to the Company (the "Existing Leaseback Agreement"), a memorandum of which (the "Existing Memorandum of Leaseback" and, together with the Existing Lease Agreement, Existing Memorandum of Lease, Existing Leaseback Agreement, the "Existing Documents") was recorded in the Monroe County Clerk's Office on May 20, 2019 in Liber 12185 of Deeds, at Page 270; and

WHEREAS, by Resolution adopted on July 21, 2020, the Agency approved a new application submitted by the Assignor for the continuation of the 2019 Project (the "2020 Project") consisting of: (A) the retention of a leasehold or subleasehold interest in the Land; (B) the construction on the Land of an approximately 140,000 square-foot, 5-story, 77-unit/318-bed student housing facility featuring modern amenities available 24/7 to its residents (the "2020 Improvements"); and (C) the acquisition and installation therein, thereon or thereabout of certain machinery, equipment and related personal property (the "2020 Equipment" and, together with the Land and the 2020 Improvements, the "2020 Facility" and, together with the 2019 Facility, the "Facility"), to be used by the students of Rochester Institute of Technology; and

WHEREAS, the Agency and the Assignor then entered into a certain Amendment to Agreements, dated as of November 1, 2020 and recorded in the Monroe County Clerk's Office on November 23, 2020, in Liber 12427 of Deeds, at page 91 (the "Amendment to Agreements"); amending the Existing Documents such that (i) the term "Project" shall mean both the 2019 Project and the 2020 Project, (ii) the term "Facility" shall mean both the 2019 Facility and the 2020 Facility, and (iii) extending the terms of the existing leases through December 31, 2052; and

WHEREAS, by Application for Assumption, dated November 1, 2021, Assignor has requested the Agency's approval of the sale of the Facility and assignment of the Financial Assistance to Harrison Street Real Estate, LLC, or a related entity formed or to be formed (collectively, the "Company"); and

WHEREAS, Assignor represents that the sale of its assets 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 to the Company and (iii) approving the execution of any and all documents necessary to effectuate the assignment of the Financial Assistance.

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 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 with respect to the Facility.

Section 4. This resolution shall take effect immediately.

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

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Jay Popli			✓	
Anthony Meleo	✓			
Troy Milne	✓			
Lisa Bolzner				✓
Joseph Alloco	✓			
Rhett King	✓			
Ann L. Burr	✓			

The Resolutions were thereupon duly adopted.

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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 November 16, 2021, 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 16th day of November, 2021.



Ana J. Liss, Executive Director