

RESOLUTION AUTHORIZING AMENDMENT
(Hudson Heritage 2019 Project – Phase I Second Amendment)

At a regular meeting of the Dutchess County Industrial Development Agency (the “Agency”) convened in public session at 8:00 a.m., local time at Three Neptune Road, Poughkeepsie, New York on the 9th day of November, 2022, the following members of the Agency were:

PRESENT: Timothy Dean, Chairman
Alfred D. Torreggiani
Donald R. Sagliano
Ronald J. Piccone, II
Amy L. Bombardieri

ABSENT: Mark Doyle, Vice Chairman
Kathleen M. Bauer, Secretary/Treasurer

ALSO PRESENT: Sarah Lee, Executive Director
Jane Denbaum, Chief Financial Officer
Donald Cappillino, Counsel
Elizabeth A. Cappillino, 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 a certain industrial development facility (Hudson Heritage 2019 Facility – Phase I) as more particularly described below:

RESOLUTION OF THE DUTCHESS COUNTY INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE EXECUTION AND DELIVERY OF A SECOND AMENDMENT TO LEASE AGREEMENT BY AND BETWEEN THE AGENCY AND EFG/SABER HERITAGE SC, LLC AND RELATED DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended and Chapter 335 of the Laws of 1977 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, EFG/SABER HERITAGE SC, LLC, a New York limited liability company having offices c/o Saber Real Estate North, LLC at 80 Business Park Drive, Suite 306, Armonk, New York 10504 (the “**Company**”), previously submitted an application to the Agency requesting the Agency provide certain “financial assistance” (within the meaning of the Act) to finance the a Master Project (the “**Master Project**”) in connection with the construction, improvement, reconstruction, repair, renovation, installation, furnishing and equipping of a certain

mixed use commercial facility (the “**Master Facility**”) in approximately eight (8) phases. The Company previously requested that the Agency take official action toward the final issuance or granting of financial assistance (the “**Phase I Financial Assistance**”) to the Company with regard to the first phase of the Master Project (“**Phase I**”) consisting of (a) the acquisition of an approximately 156.19-acre parcel of land located at 3532 North Road (Route 9), Town of Poughkeepsie, County of Dutchess, State of New York, bearing Tax Map Grid No. 134689-6163-03-011149-0000, as described in Exhibit A attached hereto (the “**Land**”), (b) the construction, improvement, reconstruction, repair, renovation, installation, furnishing and installation of approximately 108,500 square feet of mixed-use commercial space which will include an approximately 65,000 square foot space to be used as a grocery store or other similar use (the “**Grocery Store**”), an approximately 10,000 square foot space to be used as a day care center or other similar use, an approximately 17,000 square foot space to be used as a gym or fitness center or other similar use and approximately 16,500 square feet of commercial space to be used for food service or other general retail uses, all to be located on a portion of the Land located on the east side of Winslow Gate Road, as well as a portion of Master Facility-wide infrastructure construction and improvement, including water, sewer and environmental remediation on the Land (the “**Improvements**”) and (c) the acquisition and installation of certain equipment and personal property, as described in Exhibit B attached to the hereinafter defined Lease Agreement (the “**Phase I Equipment**”; and together with the Land and the Improvements, the “**Phase I Facility**”). A prior public hearing was held for the Phase I Facility on April 9, 2019, after which the Agency’s Board members approved the Phase I Project by resolution dated April 10, 2019 (the “**Phase I Authorizing Resolution**”). The Grocery Store was subsequently severed from the Phase I Project and made a separate project of the Agency known as the Shop-Rite Supermarkets, Inc. 2019 Project; and

WHEREAS, an amendment to the Phase I Facility was authorized by resolution duly adopted on September 9, 2020 (the “**Amended Phase I Authorizing Resolution**” and together with the Phase I Authorizing Resolution, the “**Authorizing Resolution**”) to amend the scope of the Phase I Facility to include:

- (A) the construction, improvement, reconstruction, repair, renovation, furnishing and installation of approximately 28,650 square feet of mixed-use commercial space currently anticipated to include food service and other general retail uses, to be located on the Land on the west side of Winslow Gate Road (the “**West of Winslow Facility**”); and
- (B) the construction, improvement, reconstruction, and installation of exterior stabilization and preservation measures for the approximately 80,000 square foot existing main Administration Building, including exterior repointing, new windows, and new roofs, located on the Land; (together with the Phase I Facility and the West of Winslow Facility, the “**Amended Phase I Facility**”); and
- (C) the acquisition and installation of new equipment, machinery and other personal property for use in the premises described above (collectively the “**Amended Phase I Equipment**”) to be owned by the Agency and leased to the Company to be used as part of the Amended Phase I Facility.

WHEREAS, the Company and the Agency previously entered into a Company Lease Agreement, dated as of June 1, 2019, as amended by the First Amendment to Company

Lease Agreement dated as of September 1, 2020, whereby the Company leased the Phase I Facility to the Agency (the “**Company Lease**”); and

WHEREAS, the Agency and the Company previously entered into a Lease and Project Agreement, dated as of June 1, 2019, as amended by the First Amendment to Company Lease Agreement dated as of September 1, 2020, whereby the Agency leased the Phase I Facility to the Company (the “**Lease Agreement**”); and

WHEREAS, pursuant to the terms of the Lease Agreement, the Sales Tax Exemption expires upon the earliest of: (A) the termination of the Lease Agreement, (B) the Completion Date, (C) the failure of the Company to file Form ST-340, as described in Section 5.2(g) of the Lease Agreement, (D) the termination of the Sales Tax Exemption authorizing pursuant to Section 10.2 of the Lease Agreement, or (E) the date upon which the Company received the Maximum Company Sales Tax Savings Amount; and

WHEREAS, the Completion Date, as defined in the Lease Agreement is December 31, 2022; and

WHEREAS, the Lease Term, as defined in the Lease Agreement terminates on December 31, 2025; and

WHEREAS, the Company has experienced construction delays resulting from the COVID-19 pandemic and the Company notified the Agency that the Project completion would be later than originally anticipated; and

WHEREAS, by letter to the Agency dated November 3, 2022, the Company requested an extension of the Completion Date, and the use of their sales tax exemption, to December 31, 2024; and

WHEREAS, the Company has not yet completed purchases to reach the Maximum Company Sales Tax Savings Amount; and

WHEREAS, the Company and the Agency intend to amend the Company Lease, pursuant to the terms of a Second Amendment of Company Lease Agreement (the “**Second Amendment to Company Lease**”) to extend the Lease Term to December 31, 2027; and

WHEREAS, the Company and the Agency intend to amend the Lease Agreement, pursuant to the terms of a Second Amendment of Lease and Project Agreement (the “**Second Amendment to Lease Agreement**”) to amend the Completion Date to December 31, 2024 and extend the Lease Term to December 31, 2027.

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

Section 1. The Board of Directors of the Agency hereby approves the extension of the Completion Date to no later than December 31, 2024 and the extension of the Lease Term to December 31, 2027.

Section 2. The Agency otherwise hereby reaffirms and readopts all the findings and determinations in the Authorizing Resolution.

Section 3. In consequence of the foregoing, the Agency hereby determines to: (i) execute and deliver the Second Amendment to Company Lease and Second Amendment to Lease Agreement, in such forms and containing such terms, conditions and provisions as the person executing the same on behalf of the Agency shall approve, such approval to be conclusively evidenced by his or her execution and delivery thereof, and (ii) execute, deliver and perform such other related documents to which the Agency is a party, as may be necessary or appropriate.

Section 4. The Chairman, Vice Chairman, any member of the Agency or the Executive Director are hereby authorized, on behalf of the Agency, to execute and deliver the Second Amendment to Company Lease and Second Amendment to Lease Agreement in such form as the Chairman, Vice Chairman, any member of the Agency or the Executive Director shall approve, and such other related documents as may be, in the judgment of the Executive Director and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution. The execution thereof by the Chairman, Vice Chairman, any member of the Agency or the Executive Director of the Agency shall constitute conclusive evidence of such approval.

Section 5. This resolution shall take effect immediately.

This resolution was duly moved by Amy L. Bombardieri seconded by Ronald J. Piccone, II, discussed and adopted with the following members voting:

Timothy Dean, Chairman	VOTING	“Aye”
Mark Doyle, Vice Chairman	being	ABSENT
Kathleen M. Bauer, Secretary/Treasurer	being	ABSENT
Alfred D. Torreggiani	VOTING	“Aye”
Donald R. Sagliano	VOTING	“Aye”
Ronald J. Piccone, II	VOTING	“Aye”
Amy L. Bombardieri	VOTING	“Aye”

Adopted: November 9, 2022

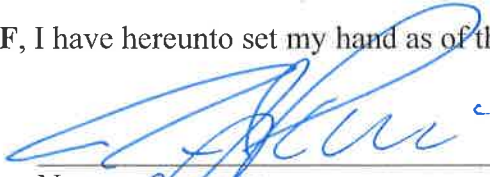
STATE OF NEW YORK)
) ss.:
COUNTY OF DUTCHESS)

I, the undersigned Assistant Secretary of the Dutchess County Industrial Development Agency, **DO HEREBY CERTIFY:**

That I have compared the annexed extract of minutes of the meeting of the Dutchess County Industrial Development Agency (the "Agency"), including the resolution contained therein, held on November 9, 2022, 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 resolution set forth therein and of the whole of and original insofar as the same related to the subject matters herein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and that public notice of the time and place of said meeting was only given in accordance with such Article 7.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 9th day of November, 2022.


Name: Ronald J. Piccone II
Title: Assistant Secretary

[SEAL]