

PRELIMINARY RESOLUTION
(Inn at Bellefield 2018 Project – Phase 2 Amendment)

A regular meeting of the Dutchess County Industrial Development Agency was convened in public session on July 12, 2023 at 8:15 a.m., local time, at the office of the Dutchess County Industrial Development Agency, Three Neptune Road, Poughkeepsie, New York.

The meeting was called to order by the Chairman, with the following members being:

PRESENT: Timothy Dean, Chairman
Mark Doyle, Vice Chairman (via Zoom)
Kathleen M. Bauer, Secretary/Treasurer
Donald R. Sagliano
Ronald J. Piccone, II
Amy L. Bombardieri

ABSENT: Alfred D. Torreggiani

ALSO PRESENT: Sarah Lee, Executive Director
Jane Denbaum, Chief Financial Officer
Donald Cappillino, Counsel
Elizabeth A. Cappillino, Counsel

On motion duly made by Ronald J. Piccone, II and seconded by Amy L. Bombardieri, the following resolution (the “**Resolution**”) was placed before the members of the Dutchess County Industrial Development Agency:

Resolution (i) Taking official action toward the issuance of financial assistance to T-Rex Hyde Park Owner LLC (Inn at Bellefield 2018 Project – Phase 2 Amendment) in the form of potential exemption from sales and use taxes, real estate transfer taxes and mortgage recording taxes and exemption from real estate property taxes; and (ii) authorizing the execution and delivery of an agreement by and between the Agency and T-Rex Hyde Park Owner, LLC with respect to such financial assistance.

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 Dutchess County Industrial Development Agency (the “**Agency**”) was created with the authority and power to provide financial assistance for the purpose of, among other things, acquiring, renovating and equipping certain facilities as authorized by the Act; and

WHEREAS, the Agency previously provided its assistance to T-Rex Hyde Park Owner, LLC, a Delaware limited liability company authorized to do business in New York with offices c/o PKF O’Connor Davies, LLP, 500 Mamaroneck Avenue, Suite 301, Harrison, New York 10528 (the “**Company**”) in connection with the acquisition of an approximately 339.618-acre parcel of land located on the east side of Route 9 near the intersection of Route 9 and West Dorsey Lane in the Town of Hyde Park, County of Dutchess, State of New York, bearing Tax Map Grid

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No. 133200-6163-01-131849 (the “**Original Land**”), the construction, installation, furnishing and equipping of an approximately 96,000 square foot 5-story hotel containing approximately 133 rooms (to be known as a Residence Inn by Marriott or other such hotel) to be located on an approximately 3.0 acre parcel of land located in the southwest corner of the Land and including infrastructure installation on the Land (the “**Original Improvements**”), and the acquisition and installation of certain equipment and personal property (collectively, the “**Original Equipment**”; and together with the Land and the Original Improvements, the “**Original Facility**”), all subleased and leased by the Agency to the Company to provide services to the business and leisure traveler visiting Dutchess County (the “**Original Project**”). The Original Project was approved by resolution duly adopted by the Agency on July 27, 2018 (the “**Authorizing Resolution**”); and

WHEREAS, the Original Facility was leased by the Company to the Agency pursuant to the terms of the Company Lease Agreement, dated as of July 1, 2018 (the “**Company Lease Agreement**”), by and between the Company, as lessor, and the Agency, as lessee; and

WHEREAS, the Agency subleased the Original Facility to the Company pursuant to a certain Lease and Project Agreement, dated as of July 1, 2018 (the “**Lease Agreement**”), by and between the Agency, as sublessor, and the Company, as sublessee; and

WHEREAS, the Company agreed to transfer to the Agency title to the Original Equipment pursuant to a Bill of Sale, dated July 23, 2018 (the “**Bill of Sale**”); and

WHEREAS, the Agency previously authorized an amendment of the Original Project and the assignment and assumption of an approximately 3.49 acre portion of the Original Project (the “**Released Lot 2 Parcel**”) to T-REX/SHANER HYDE PARK HOTEL, LLC and the assignment and assumption of another 0.58 acre portion of the Original Project (the “**Released Lot 3 Parcel**”), and together with the Released Lot 2 Parcel, the “**Released Parcels**”) to TR SEWAGE-WORKS CORP (the “**Assignment and Assumption**”). The Original Project and the Original Facility after such Assignment and Assumption are referred to herein as the Project and the Facility; and

WHEREAS, in connection with the Assignment and Assumption, the Company Lease was amended pursuant to an Amendment of Company Lease Agreement dated as of October 1, 2019 (the “**Amendment of Company Lease**”) and the Lease Agreement was amended pursuant to an Amendment of Lease and Project Agreement dated as of October 1, 2019 (the “**Amendment of Lease Agreement**”); and

WHEREAS, the Company previously submitted a request to the Agency reflecting an increase in the anticipated construction cost and construction time for the Project and requesting an extension of time to complete the Project and an increase in the sales and use tax exemption granted by the Agency; and

WHEREAS, in connection therewith, the Company and the Agency agreed to further amend the Original Lease Agreement pursuant to the terms of a Second Amendment of Lease and Project Agreement dated as of April 1, 2021 (the “**Second Amendment of Lease Agreement**”) to (i) amend the Maximum Company Sales Tax Savings Amount (as defined in Schedule A to the Original Lease Agreement) granted thereunder and (ii) extend the Completion Date (as defined in Section 3.6 of the Original Lease Agreement); and

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WHEREAS, the Company previously requested that the Agency amend the Facility to include the construction, improvement, reconstruction, repair, renovation, furnishing and installation of an approximately 10,000 square foot, one-story structure to be used as a sales office and welcome center and the installation of infrastructure, including roads, sidewalks, and conduits for utilities such as water, natural gas, sewer and storm water lines for future commercial development (collectively, the “**Phase 2a Improvements**”) all to be located on the portion of the Original Land remaining after release of the Released Parcels being a 335.55 acre parcel of land located at 15 West Dorsey Lane, Town of Hyde Park, County of Dutchess, State of New York, Tax Map Grid No. 133200-6163-01-131849 and further described in the Amendment of Company Lease (the “**Land**” and collectively with the Phase 2a Improvements, the “**Phase 2a Facility**”); and

WHEREAS, in connection therewith, the Company and the Agency agreed to further amend the Original Company Lease, pursuant to the terms of a Second Amendment of Company Lease, dated as of January 1, 2022 (the “**Second Amendment of Company Lease**”) to include the Phase 2a Facility; and

WHEREAS, in connection therewith, the Company and the Agency agreed to further amend the Original Lease Agreement, pursuant to the terms of a Third Amendment of Lease and Project Agreement, dated as of January 1, 2022 (the “**Third Amendment of Lease Agreement**”) to (i) include the Phase 2a Facility, and (ii) authorize exemptions from mortgage recording taxes for one or more mortgages securing an amount not to exceed \$14,315,297 in connection with the Project Work (as defined in the Lease Agreement); and

WHEREAS, the Agency previously consented to (1) a lot line adjustment between the Land and adjacent parcel owned by a related entity, TR Sewage, pursuant to that certain map entitled “Map of Lot Line Change, Lots 1 & 3, Filed Map #12627”, filed in the Dutchess County Clerk’s Office on May 18, 2022 as Filed Map #12627-A and (2) the transfer of a small portion of the Land to TR Sewage; and

WHEREAS, in connection therewith, the legal description of the Land was modified and the Agency and the Company agreed to further amend the Original Company Lease pursuant to the terms of a Third Amendment of Company Lease Agreement dated as of May 1, 2022 (the “**Third Amendment of Company Lease**” and together with the Original Company Lease, Amendment of Company Lease and Second Amendment of Company Lease, the “**Company Lease**”) to replace the legal description originally attached to the Company Lease with the modified legal description annexed thereto; and

WHEREAS, in connection therewith, the Agency and the Company agreed to further amend the Original Lease Agreement pursuant to the terms of a Fourth Amendment of Lease and Project Agreement dated as of May 1, 2022 (the “**Fourth Amendment of Lease Agreement**”) to replace the legal description for the Land with the modified legal description annexed thereto; and

WHEREAS, on October 10, 2022, the Company submitted a request to the Agency for an amendment to the Lease Agreement to (i) increase in the Maximum Company Sales Tax Savings Amount (as defined in the Lease Agreement) by \$70,000; and (ii) extend the Completion

Date for the Project from March 31, 2023 to December 31, 2023 (the “**Request**”), citing significant increases in the cost of construction materials and services for the Project as well as COVID-related construction delays as the reason for the Request; and

WHEREAS, in connection therewith, the Company and the Agency further amended the Original Lease Agreement pursuant to the terms of a Fifth Amendment of Lease and Project Agreement dated as of December 1, 2022 (the “**Fifth Amendment of Lease Agreement**” and together with the Original Lease Agreement, Amendment to Lease Agreement, Second Amendment of Lease Agreement, Third Amendment of Lease Agreement, and Fourth Amendment of Lease Agreement, the “**Lease Agreement**”) to (i) to amend the Maximum Company Sales Tax Savings Amount granted thereunder to increase such amount by \$70,000 and reflect a new Maximum Company Sales Tax Savings Amount of \$238,675 and (ii) to extend the Completion Date for the Project from March 31, 2023 to December 31, 2023; and

WHEREAS, the Company is now ready to proceed with its next large phase of development, to be completed in multiple phases, and has submitted a new application to the Agency requesting the Agency provide certain “financial assistance” (within the meaning of the Act), including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively the Phase 2 Financial Assistance, and, together with the Financial Assistance, the “**Amended Financial Assistance**”) for Phase 2 of the Project (the “**Phase 2 Project**” and collectively with the Project, as previously amended, the “**Expanded Project**”) in connection with the acquisition, construction, improvement, reconstruction, repair, renovation, installation, furnishing and equipping of a certain mixed-use commercial facility (the “**Phase 2 Facility**” and collectively with the Facility, as previously amended, the “**Expanded Facility**”) consisting of the following:

- (A) the construction of the following improvements to be located on an approximately 45-acre portion of the Land, as outlined in the following chart showing the number of buildings, number of stories, use, square footage¹ and number of residential units:

	NO. BLDGS	STORIES	USE	SF RESIDENTIAL	SF COMM COMM	SF COMM/ Sales	SF COMM/ COMMUNITY	SF COMM/ EDU	TOTAL RESI- UNITS
i.	6	4	Apartments	253,970	0	0	0	0	224
ii	6	3	Mixed Use-Comm/Loft	137,480	82,950	0	0	0	116
iii	1	2	Comm/ Winery	0	18,428	0	0	0	0
iv	1	2	Comm/Food Hall/ Clubhouse	0	10,000	0	0	0	0
v	1	2	Comm/ Residential	3,720	4,360	0	0	0	4
vi	1	2.5	Sales/ Marketing	0		10,000	0	0	0
vii	1	1.5	Comm/Farm Barn	0	0	0	3,540	0	0

¹ Note: While the total square footage is fixed, the square footage for individual buildings are approximations.

viii.	1	1.5	Comm/ Entrance Barn	0	0	0	750	0	0
ix.	1	1	Comm/ Maintenance	0	2,010	0	0	0	0
x.	1	1	Commercial	0	4,052	0	0	0	0
xi.	1	2	Comm/Edu	0	12,000	0	0	0	0
xii.	2	1, 2	Commercial	0		0	0	25,000	0
xii.	1	1	Comm/ Maintenance	0	1,200	0	0	0	0
xiv.	1	3	Commercial/ Edu	0		0	0	65,000	0
xv.	1	3	Commercial/ Edu	0		0	0	40,000	0
xvi.	1	1	Commercial	0	20,000	0	0	0	0
xvii.	1	1	Commercial	0	20,000	0	0	0	0
xviii.			Commercial/ Community	0	-	0	17,960	0	0
Total: 28			TOTALS	395,170	175,000	10,000	22,250	130,000	344

and

- (B) the acquisition and installation of new equipment, machinery and other personal property for use in the premises described above (collectively the “**Equipment**”) to be owned by the Agency and leased to the Company to be used as part of the Phase 2 Facility; and

WHEREAS, the Project includes the following, as they relate to the acquisition, construction, improvement, reconstruction, repair, renovation, installation, furnishing, equipping, and completion of such Phase 2 Facility, whether or not any materials or supplies described below are incorporated into or become an integral part of such Phase 2 Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with acquisition, construction, improvement, reconstruction, repair, and renovation of the Phase 2 Facility; and (ii) purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with acquisition, construction, improvement, reconstruction, repair and renovation of the Facility and installation of the equipment; and

WHEREAS, the Expanded Project will include facilities or property that are used in making “retail sales,” as defined within Section 862(2)(a) of the Act, and the Agency’s final approval of the provision of the Amended Financial Assistance for the Expanded Project is contingent upon the Agency’s finding that the Expanded Project complies with Section 862(2)(a) of the Act; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted by the Department of Environmental Conservation of the State of New York (the laws and regulations hereinafter collectively referred to as “**SEQRA**”), the Agency is required to determine whether the Expanded Project may have a significant effect on the environment and therefore require the preparation of an Environmental Impact Statement; and

WHEREAS, the Agency has yet to make a determination of environmental significance on this application but will do so prior to its grant of any financial assistance; and

WHEREAS, the Agency has not yet held a hearing pursuant to §859-a of the Act; and

WHEREAS, although the resolution authorizing the Amended Financial Assistance has not yet been presented for approval by the Agency, a Preliminary Agreement relative to the proposed Amended Financial Assistance has been presented for approval by the Agency.

NOW, THEREFORE, BE IT RESOLVED by the Dutchess County Industrial Development Agency, as follows:

1. Based upon the representations made by the Company to the Agency, the Agency hereby finds and determines that for the Expanded Project:

- (a) the Expanded Project constitutes a “project” within the meaning of the Act;
- (b) The Amended Financial Assistance will not result in the abandonment of a facility of the Company located elsewhere in the State of New York;
- (c) The Amended Financial Assistance will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of Dutchess County, New York, and improve their standard of living, and thereby serve the public purposes of the Act; and
- (d) It is desirable and in the public interest for the Agency to assist the Company by granting the Amended Financial Assistance.

2. Subject to the conditions set forth in ¶3 of this Resolution, the Agency will:

- (a) acquire a leasehold interest in the Expanded Facility;
- (b) sublease the Expanded Facility to the Company pursuant to agreements by and between the Agency and the Company;

3. The provision of the Amended Financial Assistance herein, as contemplated by ¶2 of this Resolution, shall be subject to:

- (a) the execution and delivery by the Company of the Preliminary Agreement attached hereto as Exhibit “A” setting forth certain conditions for the provision of the Amended Financial Assistance;

- (b) a finding by the Agency, after review of all relevant information, that the Expanded Project complies with § 862(a) of the Act;
- (c) compliance with SEQRA;
- (d) the agreement between the Agency and the Company on mutually acceptable terms regarding payments in lieu of taxes;
- (e) the Agency's determination that there is satisfactory support from the Town of Hyde Park and Hyde Park Central School District for the Expanded Project;
- (f) the holding of a hearing pursuant to §859-a of the Act; and
- (g) the adoption of an authorizing resolution approving the Amended Financial Assistance.

4. The form and substance of a proposed Preliminary Agreement (in substantially the form presented to this meeting) by and between the Agency and the Company setting forth the undertakings of the Agency and the Company with respect to the provision of the Amended Financial Assistance is hereby approved. The Executive Director of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Preliminary Agreement and the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency hereto and to attest to this meeting, with such changes in terms and conditions as the Executive Director shall constitute conclusive evidence of such approval.

5. Pursuant to §875(3) of the Act and under the Agency policy concerning Maintaining Performance Based Incentives (the "MPBI"), the Agency may recover, recapture or receive from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Expanded Project, any sales and use tax exemption benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Expanded Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Expanded Project, is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Expanded Project; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Expanded Project; and/or (iv) the sales and use tax exemption benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Expanded Project fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Expanded Project in the manner approved by the Agency in connection with the Expanded Project (collectively, items (i) through (iv) hereby defined as a "**Recapture Event**"). The MPBI Policy provides for the return of other incentives as set forth therein.

6. As a condition precedent of receiving sales and use tax exemption benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make

purchases for the benefit of the Expanded Project, must (i) if a Recapture Event determination is made by the Agency, cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands, if and as so required to be paid over as determined by the Agency.

7. The law firm of Nixon Peabody LLP, Rochester, New York, is hereby appointed Transaction Counsel to the Agency in relation to the provision of the Amended Financial Assistance.

8. Counsel to the Agency is hereby authorized to work with counsel to the Company and others to prepare for submission to the Agency all documents necessary to effect the authorization and provision of the Amended Financial Assistance. The Company shall be responsible for the fees of Agency, Agency’s Counsel and Transaction Counsel in relation to this Expanded Project and the provision of the Amended Financial Assistance.

9. The Agency hereby approves and authorizes the following actions by the Chairman of the Agency, prior to the granting of the Amended Financial Assistance with respect to the Expanded Project, after consultation with Agency Counsel: (i) to establish the time, date and place for a public hearing of the Agency to hear all persons interested in the Expanded Project and the proposed Amended Financial Assistance being contemplated by the Agency with respect to the Expanded Project, said public hearing to be held in the Town of Hyde Park, Dutchess County, New York; (ii) to cause notice of such public hearing to be given to the public by publishing a notice in accordance with the applicable provisions of the Act, as well as, at the same time, provide notice of the hearing to the chief executive officer of each affected tax jurisdiction; (iii) to conduct such public hearing or cause such hearing to be conducted by his designee; and (iv) to cause a stenographic transcript of said public hearing to be promptly prepared and cause copies of said report to be made available to the members of the Agency.

10. The Executive Director of the Agency is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution. The Agency hereby appoints each Member of the Agency and Agency Counsel to serve as an Assistant Secretary of the Agency for purposes of this project.

11. This Resolution shall take effect immediately.

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

Timothy Dean, Chairman	VOTING	“Aye”
Mark Doyle, Vice Chairman (via Zoom)	VOTING	“Aye”
Kathleen M. Bauer, Secretary/Treasurer	VOTING	“Aye”
Alfred D. Torreggiani	being	ABSENT
Donald R. Sagliano	VOTING	“Aye”

Ronald J. Piccone, II

VOTING "Aye"

Amy L. Bombardieri

VOTING "Aye"

The Resolution was thereupon declared duly adopted.

Adopted: July 12, 2023

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PRELIMINARY AGREEMENT
(Inn at Bellefield 2018 Project – Phase 2 Amendment)

THIS PRELIMINARY AGREEMENT (the “**Preliminary Agreement**”), made as of July 12, 2023, between the **DUTCHESS COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation, organized and existing under the General Municipal Law of the State of New York, having offices at Three Neptune Road, Poughkeepsie, New York 12601 (the “**Agency**”), and **T-REX HYDE PARK OWNER, LLC**, a Delaware limited liability company authorized to do business in New York with offices c/o PKF O’Connor Davies, LLP, 500 Mamaroneck Avenue, Suite 301, Harrison, New York 10528 (the “**Company**”).

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 to provide financial assistance for the purpose of, among other things, acquiring, renovating and equipping certain facilities as authorized by the Act; and

WHEREAS, the Agency previously provided its assistance to the Company in connection with the acquisition of an approximately 339.618-acre parcel of land located on the east side of Route 9 near the intersection of Route 9 and West Dorsey Lane in the Town of Hyde Park, County of Dutchess, State of New York, bearing Tax Map Grid No. 133200-6163-01-131849 (the “**Original Land**”), the construction, installation, furnishing and equipping of an approximately 96,000 square foot 5-story hotel containing approximately 133 rooms (to be known as a Residence Inn by Marriott or other such hotel) to be located on an approximately 3.0 acre parcel of land located in the southwest corner of the Land and including infrastructure installation on the Land (the “**Original Improvements**”), and the acquisition and installation of certain equipment and personal property (collectively, the “**Original Equipment**”; and together with the Land and the Original Improvements, the “**Original Facility**”), all subleased and leased by the Agency to the Company to provide services to the business and leisure traveler visiting Dutchess County (the “**Original Project**”). The Original Project was approved by resolution duly adopted by the Agency on July 27, 2018 (the “**Authorizing Resolution**”); and

WHEREAS, the Original Facility was leased by the Company to the Agency pursuant to the terms of the Company Lease Agreement, dated as of July 1, 2018 (the “**Company Lease Agreement**”), by and between the Company, as lessor, and the Agency, as lessee; and

WHEREAS, the Agency subleased the Original Facility to the Company pursuant to a certain Lease and Project Agreement, dated as of July 1, 2018 (the “**Lease Agreement**”), by and between the Agency, as sublessor, and the Company, as sublessee; and

WHEREAS, the Company agreed to transfer to the Agency title to the Original Equipment pursuant to a Bill of Sale, dated July 23, 2018 (the “**Bill of Sale**”); and

WHEREAS, the Agency previously authorized an amendment of the Original Project and the assignment and assumption of an approximately 3.49 acre portion of the Original

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Project (the “**Released Lot 2 Parcel**”) to T-REX/SHANER HYDE PARK HOTEL, LLC and the assignment and assumption of another 0.58 acre portion of the Original Project (the “**Released Lot 3 Parcel**”, and together with the Released Lot 2 Parcel, the “**Released Parcels**”) to TR SEWAGE-WORKS CORP (the “**Assignment and Assumption**”). The Original Project and the Original Facility after such Assignment and Assumption are referred to herein as the Project and the Facility; and

WHEREAS, in connection with the Assignment and Assumption, the Company Lease was amended pursuant to an Amendment of Company Lease Agreement dated as of October 1, 2019 (the “**Amendment of Company Lease**”) and the Lease Agreement was amended pursuant to an Amendment of Lease and Project Agreement dated as of October 1, 2019 (the “**Amendment of Lease Agreement**”); and

WHEREAS, the Company previously submitted a request to the Agency reflecting an increase in the anticipated construction cost and construction time for the Project and requesting an extension of time to complete the Project and an increase in the sales and use tax exemption granted by the Agency; and

WHEREAS, in connection therewith, the Company and the Agency agreed to further amend the Original Lease Agreement pursuant to the terms of a Second Amendment of Lease and Project Agreement dated as of April 1, 2021 (the “**Second Amendment of Lease Agreement**”) to (i) amend the Maximum Company Sales Tax Savings Amount (as defined in Schedule A to the Original Lease Agreement) granted thereunder and (ii) extend the Completion Date (as defined in Section 3.6 of the Original Lease Agreement); and

WHEREAS, the Company previously requested that the Agency amend the Facility to include the construction, improvement, reconstruction, repair, renovation, furnishing and installation of an approximately 10,000 square foot, one-story structure to be used as a sales office and welcome center and the installation of infrastructure, including roads, sidewalks, and conduits for utilities such as water, natural gas, sewer and storm water lines for future commercial development (collectively, the “**Phase 2a Improvements**”) all to be located on the portion of the Original Land remaining after release of the Released Parcels being a 335.55 acre parcel of land located at 15 West Dorsey Lane, Town of Hyde Park, County of Dutchess, State of New York, Tax Map Grid No. 133200-6163-01-131849 and further described in the Amendment of Company Lease (the “**Land**” and collectively with the Phase 2a Improvements, the “**Phase 2a Facility**”); and

WHEREAS, in connection therewith, the Company and the Agency agreed to further amend the Original Company Lease, pursuant to the terms of a Second Amendment of Company Lease, dated as of January 1, 2022 (the “**Second Amendment of Company Lease**”) to include the Phase 2a Facility; and

WHEREAS, in connection therewith, the Company and the Agency agreed to further amend the Original Lease Agreement, pursuant to the terms of a Third Amendment of Lease and Project Agreement, dated as of January 1, 2022 (the “**Third Amendment of Lease**”); and

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Agreement”) to (i) include the Phase 2a Facility, and (ii) authorize exemptions from mortgage recording taxes for one or more mortgages securing an amount not to exceed \$14,315,297 in connection with the Project Work (as defined in the Lease Agreement); and

WHEREAS, the Agency previously consented to (1) a lot line adjustment between the Land and adjacent parcel owned by a related entity, TR Sewage, pursuant to that certain map entitled “Map of Lot Line Change, Lots 1 & 3, Filed Map #12627”, filed in the Dutchess County Clerk’s Office on May 18, 2022 as Filed Map #12627-A and (2) the transfer of a small portion of the Land to TR Sewage; and

WHEREAS, in connection therewith, the legal description of the Land was modified and the Agency and the Company agreed to further amend the Original Company Lease pursuant to the terms of a Third Amendment of Company Lease Agreement dated as of May 1, 2022 (the “**Third Amendment of Company Lease**” and together with the Original Company Lease, Amendment of Company Lease and Second Amendment of Company Lease, the “**Company Lease**”) to replace the legal description originally attached to the Company Lease with the modified legal description annexed thereto; and

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WHEREAS, on October 10, 2022, the Company submitted a request to the Agency for an amendment to the Lease Agreement to (i) increase in the Maximum Company Sales Tax Savings Amount (as defined in the Lease Agreement) by \$70,000; and (ii) extend the Completion Date for the Project from March 31, 2023 to December 31, 2023 (the “**Request**”), citing significant increases in the cost of construction materials and services for the Project as well as COVID-related construction delays as the reason for the Request; and

WHEREAS, in connection therewith, the Company and the Agency further amended the Original Lease Agreement pursuant to the terms of a Fifth Amendment of Lease and Project Agreement dated as of December 1, 2022 (the “**Fifth Amendment of Lease Agreement**” and together with the Original Lease Agreement, Amendment to Lease Agreement, Second Amendment of Lease Agreement, Third Amendment of Lease Agreement, and Fourth Amendment of Lease Agreement, the “**Lease Agreement**”) to (i) to amend the Maximum Company Sales Tax Savings Amount granted thereunder to increase such amount by \$70,000 and reflect a new Maximum Company Sales Tax Savings Amount of \$238,675 and (ii) to extend the Completion Date for the Project from March 31, 2023 to December 31, 2023; and

WHEREAS, the Company is now ready to proceed with its next large phase of development, to be completed in multiple phases, and has submitted a new application to the Agency requesting the Agency provide certain “financial assistance” (within the meaning of the Act), including potential exemptions from certain sales and use taxes, real property taxes, real

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(A) the construction of the following improvements to be located on an approximately 45-acre portion of the Land, as outlined in the following chart showing the number of buildings, number of stories, use, square footage¹ and number of residential units:

	NO. BLDGS	STORIES	USE	SF RESIDENTIAL	SF COMM	SF COMM/ Sales	SF COMM/ COMMUNITY	SF COMM/ EDU	TOTAL RESI- UNITS
i.	6	4	Apartments	253,970	0	0	0	0	224
ii	6	3	Mixed Use-Comm/Loft	137,480	82,950	0	0	0	116
iii	1	2	Comm/ Winery	0	18,428	0	0	0	0
iv	1	2	Comm/Food Hall/ Clubhouse	0	10,000	0	0	0	0
v	1	2	Comm/ Residential	3,720	4,360	0	0	0	4
vi	1	2.5	Sales/ Marketing	0		10,000	0	0	0
vii	1	1.5	Comm/Farm Barn	0	0	0	3,540	0	0
viii	1	1.5	Comm/ Entrance Barn	0	0	0	750	0	0
ix.	1	1	Comm/ Maintenance	0	2,010	0	0	0	0
x.	1	1	Commercial	0	4,052	0	0	0	0
xi.	1	2	Comm/Edu	0	12,000	0	0	0	0
xii.	2	1, 2	Commercial	0		0	0	25,000	0
xii.	1	1	Comm/ Maintenance	0	1,200	0	0	0	0
xiv.	1	3	Commercial/ Edu	0		0	0	65,000	0
xv.	1	3	Commercial/ Edu	0		0	0	40,000	0
xvi.	1	1	Commercial	0	20,000	0	0	0	0

¹ Note: While the total square footage is fixed, the square footage for individual buildings are approximations.

xvii.	1	1	Commercial	0	20,000	0	0	0	0
xviii.			Commercial/ Community	0	-	0	17,960	0	0
Total: 28			TOTALS	395,170	175,000	10,000	22,250	130,000	344

and

- (B) the acquisition and installation of new equipment, machinery and other personal property for use in the premises described above (collectively the “**Equipment**”) to be owned by the Agency and leased to the Company to be used as part of the Phase 2 Facility; and

WHEREAS, the Project includes the following, as they relate to the acquisition, construction, improvement, reconstruction, repair, renovation, installation, furnishing, equipping, and completion of such Phase 2 Facility, whether or not any materials or supplies described below are incorporated into or become an integral part of such Phase 2 Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with acquisition, construction, improvement, reconstruction, repair, and renovation of the Phase 2 Facility; and (ii) purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with acquisition, construction, improvement, reconstruction, repair and renovation of the Facility and installation of the equipment; and

WHEREAS, the Expanded Project will include facilities or property that are used in making “retail sales,” as defined within Section 862(2)(a) of the Act, and the Agency’s final approval of the provision of the Amended Financial Assistance for the Expanded Project is contingent upon the Agency’s finding that the Expanded Project complies with Section 862(2)(a) of the Act; and

WHEREAS, the Agency has determined that the financing of the Expanded Project will promote and further the purposes of the Act; and

WHEREAS, on July 12, 2023, the Agency adopted a Preliminary Resolution (the “**Preliminary Resolution**”) accepting the Expanded Project and authorizing the execution of this Preliminary Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Agency and the Company agree as follows:

1. Undertakings of the Agency. Based upon the statements, representations, and undertakings of the Company and subject to the conditions set forth herein and in the Preliminary Resolution, the Agency agrees as follows:

(a) The Agency shall adopt, or cause to be adopted, such proceedings and authorize the execution of such documents as may be necessary or advisable for (i) construction, installation, furnishing and equipping of the Expanded Facility and the financing of such costs; and (ii) the subleasing of the Expanded Facility to the Company and leasing the equipment to the Company, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company.

(b) The Agency shall acquire a leasehold interest in the Expanded Facility and enter into an agreement to sublease the Expanded Facility to the Company (the “**Lease Agreement**”). The Lease Agreement shall contain all provisions required by law and such other provisions as shall be mutually acceptable to the Agency and the Company.

(c) Reserved.

(d) The Agency shall take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

2. Representations of the Company. The Company hereby represents to the Agency that:

(a) The Expanded Facility is located in Dutchess County, New York;

(b) The proposed financing of the Expanded Project will contribute to increased employment opportunities in Dutchess County, New York; and

(c) The Expanded Project will comply with all applicable federal, state, and local laws, ordinance, rules, and regulations and the Company shall obtain all necessary approvals and permits required thereunder.

3. Undertakings of the Company. Based upon the statements, representations, and undertakings of the Agency and subject to the conditions set forth herein and in the Preliminary Resolution, the Company agrees as follows:

(a) The Company shall use all reasonable efforts necessary or desirable to enter into a contract or contracts for the acquisition of the Expanded Facility (to the extent not heretofore acquired) and on the terms and conditions set forth in the Lease Agreement, transfer to the Agency, or cause to be transferred to the Agency, title to or a leasehold interest in, the Expanded Facility.

(b) (i) To the extent the Agency is not defended and indemnified under a policy of insurance maintained by the Company, and subject to any subrogation waivers contained in the Lease Agreement, the Company shall defend and indemnify the Agency and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on: (1) labor, services, materials and supplies, including equipment, ordered or used in connection with the acquisition of the Expanded Facility and installation of equipment in the Expanded Facility (including any expense incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing) except that the Company shall not be required to indemnify the Agency for the willful or grossly negligent conduct of the Agency, its employees, agents, or representatives; or (2) any untrue statement or alleged untrue statement of a material fact necessary in order to make the statements herein, in the light of the circumstances under which they were made, not misleading.

(ii) The Company shall not permit to stand, and shall at its own expense take all steps reasonably necessary to remove, any mechanic's or other liens against the Expanded Facility for labor for the construction, renovation, installation, furnishing and equipping of the Expanded Facility.

(iii) To the extent the Agency is not defended and indemnified under a policy of insurance maintained by the Company, and subject to any subrogation waivers contained in the Lease Agreement, the Company shall indemnify and hold the Agency harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation to the Expanded Project, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing, except that the Company shall not be required to indemnify the Agency for the willful or grossly negligent conduct of the Agency, its employees, agents, or representatives.

(c) Reserved.

(d) The Company shall take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

4. General Provisions.

(a) This Preliminary Agreement shall take effect on the date of execution hereof until the Lease Agreement becomes effective. It is the intent of the Agency and the Company that this Preliminary Agreement be superseded in its entirety by the Lease Agreement.

(b) It is understood and agreed by the Agency and the Company that the execution of the Lease Agreement and related documents are subject to: (i) obtaining all necessary governmental approvals; and (ii) approval of the members of the Agency; and (iii) a finding by the Agency, after review of all relevant information, that the Project complies with Section 862(a) of the Act.

(c) The Company agrees that they will reimburse the Agency for all reasonable and necessary direct out-of-pocket expenses which the Agency may incur as a consequence of executing this Preliminary Agreement or performing its obligations hereunder, including but not limited to, the cost of causing a notice of any public hearing held with respect to the Expanded Project to be published, the cost of making and transcribing records of said hearings and the reasonable fees and expenses charged and incurred by Agency Counsel and Transaction Counsel in connection with their representation of the Agency in this matter and their preparation of any documents pertaining to the provisions of the Amended Financial Assistance.

(d) All commitments of the Agency under ¶1 hereof and of the Company under ¶¶2 and 3 hereof (excepting the obligations of the Company set forth in subparagraphs 3(b) and 4(c) hereof, which shall survive the termination of this Preliminary Agreement) are subject to the

condition that the Lease Agreement shall have been executed no later than fifteen (15) months from the date hereof (or such other date as shall be mutually satisfactory to the Agency and the Company).

[Remainder of Page Intentionally Left Blank. Signature Page Follows].

CAPPILLINO,
ROTHSCHILD
& EGAN LLP
Attorneys at Law
Seven Broad Street
P.O. Box 390
Pawling, New York
12564-0390
(845) 855-5444

IN WITNESS WHEREOF, the parties hereto have entered into this Preliminary Agreement as of the 12th day of July, 2023.

DUTCHESS COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Sarah Lee, Executive Director

T-REX HYDE PARK OWNER, LLC

By: _____

Signature Page to Preliminary Agreement
1 of 1

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

I, the undersigned 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 July 12, 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 resolution set forth therein and of the whole of and original insofar as the same related to the subject matters herein referred to.

That the Preliminary Agreement annexed hereto as Exhibit "A" is in substantially the same form presented to and approved at such meeting.

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 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.

I FURTHER CERTIFY, that 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 modified.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 12th day of July, 2023.



Kathleen M. Bauer, Secretary

[SEAL]