

CLOSING ITEM NO.: A-10

ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY

AND

122 2ND STREET ASSOCIATION, LLC

PROJECT BENEFITS AGREEMENT

DATED AS OF JUNE 1, 2015

RELATING TO A LEASEHOLD INTEREST AND A LICENSE
INTEREST HELD BY THE LANDLORD IN A CERTAIN PARCEL
OF LAND LOCATED 122 2ND STREET IN THE CITY OF
WATERVLIET, ALBANY COUNTY, NEW YORK.

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and is for convenience of reference only.)

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PROJECT BENEFITS AGREEMENT

THIS PROJECT BENEFITS AGREEMENT dated as of June 1, 2015 (the "Lease Agreement") by and between ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 112 State Street, Albany, New York (the "Agency"), and 122 2ND STREET ASSOCIATION, LLC, a limited liability company organized and existing under the laws of the State of New York having an office for the transaction of business located at 172 River Street, Suite D, Troy, New York (the "Company") and is being entered into by the Agency and the Company to establish the conditions under which the Agency will be entitled to recapture some or all of the Project Financial Assistance (as such term is defined herein) that has been granted to the Company under the Basic Documents (as such term is defined herein).

WITNESSETH:

WHEREAS, Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "Enabling Act") was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York; and

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York (the "State") and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency, for the purpose of carrying out any of its corporate purposes, to lease or sell any or all of its facilities, whether then owned or thereafter acquired; and

WHEREAS, the Agency was created, pursuant to and in accordance with the provisions of the Enabling Act, by Chapter 178 of the Laws of 1975 of the State (collectively, with the Enabling Act, the "Act") and is empowered under the Act to undertake the Project (as hereinafter defined) in order to so advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their standard of living; and

WHEREAS, 122 2nd Street Association, LLC (the "Company"), a limited liability company duly organized and validly existing under the laws of the State of New York, presented an application (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project to include the following: (A) (1) the acquisition of an interest in a parcel of real estate containing approximately 1.46 acres of land located at 122 2nd Street in the City of Watervliet, Albany County, New York (the "Land"), together with the existing building containing approximately 80,000 square feet of space located thereon (the "Facility"), (2) the reconstruction and renovation of the Facility, and (3) the acquisition and installation thereon and therein of machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment being hereinafter collectively referred to as the "Project Facility"), all of the foregoing to be owned by the Company, to constitute a mixed use retail/residential facility and to be leased by the Company to various

commercial and residential tenants and any other directly and indirectly related activities; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, pursuant to the authorization contained in a resolution adopted by the members of the Agency on November 19, 2014 (the “Public Hearing Resolution”), the Chairman of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on November 26, 2014 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be posted on December 5, 2014 on a public bulletin board located at 112 State Street in the City of Albany, Albany County, New York and the Albany County Courthouse, Eagle Street in the City of Albany, Albany County, New York, (C) caused notice of the Public Hearing to be published on December 1, 2014 in the Albany Times Union, a newspaper of general circulation available to the residents of the City of Watervliet, Albany County, New York, (D) conducted the Public Hearing on December 11, 2014 at 5:30 o’clock p.m., local time in the Watervliet Senior Citizens Center located at the J. Leo O’Brien Building, 1501 Broadway in the City of Watervliet, Albany County, New York, and (E) prepared a report of the Public Hearing (the “Public Hearing Report”) fairly summarizing the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), by resolution adopted by the members of the Agency on December 17, 2014 (the “SEQR Resolution”) the Agency determined (A) that the Project constituted an “Unlisted Action” under SEQRA, (B) that the Project would not have a “significant effect on the environment” pursuant to SEQRA and, therefore, that no environmental impact statement need be prepared with respect to the Project, and (C) as a consequence of the foregoing, to prepare a negative declaration with respect to the Project; and

WHEREAS, by further resolution adopted by the members of the Agency on December 17, 2014 (the “Commercial/Retail Findings Resolution”), the Agency (A) determined that the Project constituted a “commercial project” within the meaning of the Act, (B) found that although the Project Facility appears to constitute a project where facilities or properties that are primarily used in making the retail sales of goods or services to customers who personally visit such facilities may constitute more than one-third of the costs of the Project, the Agency is authorized to provide financial assistance in respect of the Project pursuant to Section 862(2)(a) of the Act because the Project Facility is located in a “highly distressed area” (as defined in the Act), (C) determined, following a review of the Public Hearing Report, that the Project would serve the public purposes of the Act by preserving permanent private sector jobs in the State of New York, (D) determined that the Agency would proceed with the Project and the granting of the Financial Assistance; provided however, that no financial assistance would be provided to the Project by the Agency unless and until the County Executive of Albany County, as chief executive officer of Albany County, New York, pursuant to Section 862(2)(c) of the Act, confirmed the proposed action of the Agency with respect to the Project; and

WHEREAS, the Agency’s Uniform Tax Exemption Policy (the “Policy”) provides that the Agency will not grant any Financial Assistance relating to an exemption from real property taxes unless

the project applicant obtains the approval of the “affected taxing jurisdictions” (as defined in the Act) to the terms of any such abatement. The Company has negotiated a real property tax abatement schedule with the City of Watervliet (the “City”), the City of Watervliet City School District (the “School District”) and Albany County (the “County,” and together with the City and the School District, being collectively referred to as the “Affected Tax Jurisdictions”), and such Affected Tax Jurisdictions have adopted resolutions and certificates, as applicable (the “PILOT Approval Documents”), approving the payment terms of a payment in lieu of tax agreement to be entered into by the Agency with respect to the Project Facility; and

WHEREAS, by further resolution adopted by the members of the Agency on December 17, 2014 (the “Approving Resolution”), the Agency determined to grant the Financial Assistance and to enter into a lease agreement dated as of June 1, 2015 (the “Lease Agreement”) between the Agency and the Company and certain other documents related thereto and to the Project (collectively with the Lease Agreement, the “Basic Documents”). Pursuant to the terms of the Lease Agreement, (A) the Company will agree (1) to cause the Project to be undertaken and completed, and (2) as agent of the Agency, to undertake and complete the Project and (B) the Agency has leased the Project Facility to the Company for a lease term ending on the earlier to occur of (1) December 31, 2036 or (2) the date on which the Lease Agreement is terminated pursuant to the optional termination provisions thereof. The Lease Agreement grants to the Company certain options to acquire the Project Facility from the Agency; and

WHEREAS, by certificate dated April 16, 2015 (the “Public Approval”), the County Executive of the County of Albany, New York, approved the proposed action to be taken by the Agency with respect to the Project for purposes of Section 862(2)(c) of the Act; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the “Closing”), (A) the Company will execute and deliver to the Agency (1) a certain lease to agency dated as of June 1, 2015 (the “Lease to Agency”) by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company will lease to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the “Leased Premises”) for a lease term ending on December 31, 2036; (2) a certain license agreement dated as of June 1, 2015 (the “License to Agency”) by and between the Company, as licensor, and the Agency, as licensee, pursuant to which the Company will grant to the Agency (a) a license to enter upon the balance of the Land (the “Licensed Premises”) for the purpose of undertaking and completing the Project and (b) in the event of an occurrence of an Event of Default by the Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement; and (3) a bill of sale dated as of June 1, 2015 (the “Bill of Sale to Agency”), which conveys to the Agency all right, title and interest of the Company in the Equipment, (B) the Company and the Agency will execute and deliver (1) a payment in lieu of tax agreement dated as of June 1, 2015 (the “Payment in Lieu of Tax Agreement”) by and between the Agency and the Company, pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility, (2) a project benefits agreement dated as of June 1, 2015 (the “Project Benefits Agreement”) relating to the granting of the Financial Assistance by the Agency to the Company, and (3) a certain recapture agreement (the “Section 875 GML Recapture Agreement”) by and between the Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes, (C) the Agency will file with the assessor and mail to the chief executive officer of each “affected tax jurisdiction” (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the “Real Property Tax Exemption Form”) relating to the Project Facility and the Payment in Lieu of Tax Agreement, (D) the Agency will execute and deliver to the Company a sales tax exemption letter (the “Sales Tax Exemption Letter”) to ensure the granting of the sales tax exemption which forms a part of the

Financial Assistance and (E) the Agency will file with the New York State Department of Taxation and Finance the form entitled "IDA Appointment of Project Operator or Agent for Sales Tax Purposes" (the form required to be filed pursuant to Section 874(9) of the Act) (the "Thirty-Day Sales Tax Report"); and

WHEREAS, in order to finance a portion of the costs of the Project, the Company will obtain a loan in the principal sum of up to \$6,500,000 (the "Loan") from Pioneer Savings Bank (the "Lender"), which Loan will be secured by (1) a mortgage and security agreement dated as of June 1, 2015 (the "Mortgage") from the Agency and the Company to the Lender and (2) an assignment of rents and leases dated as of June 1, 2015 (the "Assignment of Rents") from the Agency and the Company to the Lender; and

WHEREAS, the providing of the Project Facility and the Financial Assistance to the Company pursuant to this Project Benefits Agreement is for a proper purpose, to wit, to advance the job opportunities, health, general prosperity and economic welfare of the inhabitants of the State, pursuant to the provisions of the Act; and

WHEREAS, all things necessary to constitute this Project Benefits Agreement a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution and delivery of this Project Benefits Agreement have in all respects been duly authorized by the Agency and the Company;

ARTICLE I

DEFINITIONS

SECTION 1.01. DEFINITIONS. The following words and terms used in this Project Benefits Agreement shall have the respective meanings set forth below unless the context or use indicates another or different meaning or intent.

“Application” means the application submitted by the Company to the Agency, in which the Company describes the Project, certifies the number of employees that will be employed at the Project Facility, and requests the Agency’s assistance with the completion of the Project.

“Basic Documents” means the Conveyance Documents, the Lease Agreement, the Project Benefits Agreement, the Section 875 GML Recapture Agreement and all other instruments and documents related thereto and executed in connection therewith, and any other instrument or document supplemental thereto, each as amended from time to time.

“Completion Date” means the earlier to occur of (A) October 31, 2015, or (B) such date as shall be certified by the Company to the Agency as the date of completion of the Project pursuant to Section 4.2 of the Lease Agreement, or (C) such earlier date as shall be designated by written communication from the Company to the Agency as the date of completion of the Project.

“Contract Employee” means (A) a full-time, private-sector employee (or self employed individual) that is not on the Company’s payroll but who has worked for the Company at the Project Facility for a minimum of 35 hours per week for not less than 4 consecutive weeks providing services that are similar to services that would otherwise be performed by a Full Time Equivalent Employee, or (B) 2 part-time, private-sector employees (or self employed individuals) that are not on the payroll of the Company but who have worked at the Project Facility for a combined minimum of 35 hours per week for not less than 4 consecutive weeks providing services that are similar to services that would otherwise be performed by a Full Time Equivalent Employee.

“Conveyance Documents” means, collectively, the Lease to Agency, the License to Agency, and the Bill of Sale to Agency.

“Equipment” means various machinery and equipment that is located on the Land and in the Facility.

“Facility” means all buildings (or portions thereof), improvements, structures and other related facilities, and improvements thereto, (A) located on the Land, (B) financed with the proceeds of any payment made by the Company pursuant to Section 4.1(H) of the Lease Agreement, and (C) not constituting a part of the Equipment, all as they may exist from time to time.

“Financial Assistance” shall have the meaning assigned to such term in the sixth recital clause to the Lease Agreement.

“Full Time Equivalent Employee” means (A) a full-time, permanent, private-sector employee on the payroll of the Company, who has worked at the Project Facility for a minimum of 35 hours per week for not less than 4 consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by the Company to other employees with comparable rank and duties or (B) two part-time, permanent, private-sector employees on the payroll of the Company, who have worked at the

Project Facility for a combined minimum of 35 hours per week for not less than 4 consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by the Company to other employees with comparable rank and duties; or (C) a Contract Employee.

For purposes of this Project Benefits Agreement and satisfaction of the Employment Levels (as defined herein), the total number of Full Time Equivalent Employees will be calculated as follows: (1) using the definition of Full Time Equivalent Employee immediately above, determine the number of Full Time Equivalent Employees working at the Project Facility, (2) determine the total hours worked by such Full Time Equivalent Employees (including overtime hours), and (3) divide the total amount of hours worked by the Full Time Equivalent Employees by 35.

By way of example, if the Company employees 65 Full Time Equivalent Employees at the Project Facility, each of the Full Time Equivalent Employees works 40 regular hours per week, and total overtime in a given week is equal to 50 hours, the equation referenced in the paragraph above would be calculated as follows:

$$\begin{aligned} 65 \text{ (FTE)} \times 40 \text{ (Regular Hours)} &= 2600 + 50 \text{ (Overtime Hours)} = 2650 \text{ (Hours)} \\ 2650 \text{ (Hours)} / 35 &= 74.29 \text{ (FTE)} \end{aligned}$$

“Land” means a parcel of land located at 122 2nd Street in the City of Watervliet, Albany County, New York.

“Lease Agreement” means the lease agreement dated as of June 1, 2015 by and between the Agency, as landlord, and the Company, as tenant, pursuant to which, among other things, the Agency has leased the Project Facility to the Company, as said lease agreement may be amended or supplemented from time to time.

“Project” means (1) the acquisition of an interest in a portion of a parcel of land containing approximately 13.2 acres and having an address of 40 Riverview Drive (currently Tax Map # 156.-4-6.1) in the Town of Coeymans, Albany County, New York (the “Land”), (2) the construction on the Land of various buildings to contain in the aggregate an amount not to exceed approximately 55,000 square feet of space (collectively, the “Facility”) and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment being hereinafter collectively referred to as the “Project Facility”), all of the foregoing to be owned by the Company and operated by TCI of NY, LLC as a facility for the recycling, conversion and dismantling of electrical equipment, including retired transformers, and any other directly or indirectly related activities.

“Project Benefits Agreement” means the project benefit agreement dated as of June 1, 2015 relating to the granting of the Financial Assistance by the Agency to the Company, as said Project Benefits Agreement may be amended or supplemented from time to time.

“Project Facility” means, collectively, the Land, the Facility and the Equipment.

“Recapture Period” means a period of approximately twenty (20) years, commencing on the Completion Date.

“Recapture Events” shall mean the following:

- (1) failure to complete the acquisition, reconstruction and installation of the Project Facility;

(2) liquidation of substantially all of the Company's operating assets and/or cessation of substantially all of the Company's operations, except by reason of the merger or acquisition of the Company or its assets by an entity in conformity with Section 8.4 of the Lease Agreement;

(3) relocation of all or substantially all of Company's operations at the Project Facility to another site, or the sale, lease or other disposition of all or substantially all of the Project Facility;

(4) elimination of jobs, transfer of jobs out of Albany County or the failure to create jobs that results in the total number of Full Time Equivalent Employees working at the Project Facility to be equal to or less than eighty (80%) percent of the Employment Level (as defined herein);

(5) sublease of all or part of the Project Facility in violation of Basic Documents; or

(6) a change in the use of the Project Facility, other than as all of the foregoing to be owned and operated by the Company as a mixed use retail/residential facility and other directly and indirectly related activities.

ARTICLE II
REPRESENTATIONS AND WARRANTIES

SECTION 2.01. REPRESENTATIONS OF AND WARRANTIES BY THE AGENCY. The Agency does hereby represent, warrant and covenant as follows:

(A) Power. The Agency is a public benefit corporation of the State, has been duly established under the provisions of the Act, is validly existing under the provisions of the Act and has the power under the laws of the State of New York to enter into this Project Benefits Agreement and to carry out the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Project Benefits Agreement.

(B) Authorization. The Agency is authorized and has the corporate power under the Act, its by-laws and the laws of the State to enter into this Project Benefits Agreement and the transactions contemplated hereby and to perform and carry out all the covenants and obligations on its part to be performed under and pursuant to this Project Benefits Agreement. By proper corporate action on the part of its members, the Agency has duly authorized the execution, delivery and performance of this Project Benefits Agreement and the consummation of the transactions herein contemplated.

(C) Conflicts. The Agency is not prohibited from entering into this Project Benefits Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Project Benefits Agreement by the terms, conditions or provisions of any order, judgment, decree, law, ordinance, rule or regulation of any court or other agency or authority of government, or any agreement or instrument to which the Agency is a party or by which the Agency is bound.

SECTION 2.02. REPRESENTATIONS OF AND WARRANTIES BY THE COMPANY. The Company does hereby represent, warrant and covenant as follows:

(A) Power. The Company is a limited liability company duly organized and validly existing under the laws of the State of Delaware, is qualified and authorized to do business in the State of New York and has the power under the laws of the State of New York to enter into this Project Benefits Agreement and to perform and carry out the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Project Benefits Agreement, and by proper action of its members has been duly authorized to execute, deliver and perform this Project Benefits Agreement.

(B) Authorization. The Company is authorized and has the power under its certificate of formation, company agreement and the laws of the State of New York to enter into this Project Benefits Agreement and the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Project Benefits Agreement. By proper action of its members, the Company has duly authorized the execution, delivery and performance of this Project Benefits Agreement and the consummation of the transactions herein contemplated.

(C) Conflicts. The Company is not prohibited from entering into this Project Benefits Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Project Benefits Agreement by (and the execution, delivery and performance of this Project Benefits Agreement, the consummation of the transactions contemplated hereby and the fulfillment of and compliance with the provisions of this Project Benefits Agreement will not conflict with or violate or constitute a breach of or a default under) the terms, conditions or provisions of its

certificate of formation, company agreement or any other restriction, law, rule, regulation or order of any court or other agency or authority of government, or any contractual limitation, restriction or outstanding indenture, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which the Company is a party or by which it or any of its property is bound, and neither the Company's entering into this Project Benefits Agreement nor the Company's discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Project Benefits Agreement will be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any of the foregoing, and this Project Benefits Agreement is the legal, valid and binding obligation of the Company enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(D) Governmental Consent. No consent, approval or authorization of, or filing, registration or qualification with, any governmental or public authority on the part of the Company is required as a condition to the execution, delivery or performance of this Project Benefits Agreement by the Company or as a condition to the validity of this Project Benefits Agreement.

ARTICLE III

COVENANTS AND AGREEMENTS

SECTION 3.01. FINANCIAL ASSISTANCE. (A) Financial Assistance. In connection with the Project, and in reliance on the certifications provided by the Company in the Application, the Agency has agreed to provide the Company with (1) sales and use tax exemptions, (2) a mortgage recording tax exemption with respect to the Project, and (3) a real property tax abatement on the Project Facility

(B) Contingent Nature of the Financial Assistance. The Agency and the Company agree that the purpose of the Project is to create or retain permanent private sector jobs in Albany County in the form of direct employees at the Project Facility. Accordingly, the Agency and the Company agree that the amount of Financial Assistance to be received by the Company with respect to the Project shall bear a direct relationship to the success or lack of success of the Project in achieving this goal.

SECTION 3.02. COMPANY AGREEMENTS. The Company hereby agrees as follows:

(A) To file with the Agency, prior to the Closing Date, an employment plan, in substantially the form attached as Exhibit F to the Lease Agreement.

(B) To file with the Agency, on an annual basis, reports regarding the number of people employed at the Project Facility and certain other matters, including as required under Applicable Law, the initial said annual employment report to be in substantially the form annexed as Exhibit G to the Lease Agreement.

(C) To list new employment opportunities created as a result of the Project with the following entities (hereinafter, the "JTPA Entities"): (1) the New York State Department of Labor Community Services Division and (2) the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300) in which the Project Facility is located (while currently cited in Section 858-b of the Act, the Federal Job Training Partnership Act was repealed effective May 1, 2000, and has been supplanted by the Workplace Investment Act of 1998 (P.L. No. 105-220)). The Company agrees, where practicable, to first consider for such new employment opportunities persons eligible to participate in federal job training partnership programs who shall be referred by the JTPA Entities.

(D) In the Application, the Company certified to the Agency certain information regarding Company employment levels with respect to the Project Facility and its operations.

(1) To maintain, or to cause to be maintained, the following employment levels (the "Employment Levels") during the term of the Lease Agreement at the Project Facility:

Year	Full Time Equivalent Employees
2016 and thereafter	2

(2) To verify that the Company is achieving, or causing to be achieved, the Employment Levels at the Project Facility, the Company is required to submit the following reports: (1) by the 15th day of the first calendar month of each new quarter, a form NYS-45-MN (the "Quarterly Report," a copy of which is attached hereto as **Exhibit A**) or some other form of reporting that is explicitly approved by the Agency, and (2) by April 1 of each year during the term of this Project Benefits Agreement, a project and employment plan status report (the "Status

Report," a copy of which is attached hereto as **Exhibit B** and, together with the Quarterly Report, being collectively referred to as the "Employment Affidavits") or some other form that is explicitly approved by the Agency. Full Time Equivalent Employees for each calendar year during the term of this Project Benefits Agreement shall be determined by calculating the average number of Full Time Equivalent Employees for the prior calendar year, computed by adding the number of Full Time Equivalent Employees as of the Company's last payroll date in the months of March, June, September and December and dividing that sum by 4. The parties hereto recognize and agree that during the first year of operation of the Project Facility following the Completion Date, the Employment Affidavits will be pro-rated to reflect the ramp-up of the Company's operations.

(3) For purposes of determining the number of Full Time Equivalent Employees, (i) no more than seventy-five percent (75%) of such Full Time Equivalent Employees may consist of Contract Employees, and (ii) up to seventy-five percent (75%) of such Full Time Equivalent Employees may be employed off site in other facilities located in Albany County, New York.

(E) The Company will endeavor to consider MWBE companies when making decisions to contract with third party vendors, contractors and materialmen.

(F) The Company agrees to post a sign at the site of the Project satisfying the requirements contained in **Exhibit C** attached.

(G) The Company agrees to provide the Agency with at least fourteen (14) days prior written notice of any groundbreaking, grand opening or other event relating to the undertaking and completion of the Project and to provide the officers of the Agency and such other officials as they may designate with an opportunity to speak at and participate in such event or events.

ARTICLE IV

EVENTS OF DEFAULT AND REMEDIES

SECTION 4.01. EVENTS OF DEFAULT DEFINED. (A) The following shall be “Events of Default” under this Project Benefits Agreement, and the terms “Event of Default” or “default” shall mean, whenever they are used in this Project Benefits Agreement, any one or more of the following events:

(1) A default in the performance or observance of any of the covenants, conditions or agreements on the part of the Company in this Project Benefits Agreement and the continuance thereof for a period of thirty (30) days after written notice thereof is given by the Agency to the Company, provided that, if such default is capable of cure but cannot be cured within such thirty (30) day period, the failure of the Company to commence to cure within such thirty (30) day period and to prosecute the same with due diligence.

(2) The occurrence of an “Event of Default” under any other Basic Document.

(3) Any representation or warranty made by the Company herein or in any other Basic Document proves to have been false at the time it was made.

SECTION 4.02. REMEDIES ON DEFAULT. (A) Whenever any Event of Default hereunder shall have occurred, and after thirty (30) days written notice to the Company to cure, the Agency may, to the extent permitted by law, take any one or more of the following remedial steps:

(1) declare, by written notice to the Company, to be immediately due and payable, whereupon the same shall become immediately due and payable, (a) all amounts payable pursuant to Section 5.3 of the Lease Agreement, and (b) all other payments due under this Project Benefits Agreement or any of the other Basic Documents; or

(2) terminate the Lease Agreement and convey to the Company all the Agency’s right, title and interest in and to the Project Facility (The conveyance of the Agency’s right, title and interest in and to the Project Facility shall be effected by the recording by the Agency of the Termination of Lease to Agency and the Bill of Sale to Company. The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from any such transfer of title); or

(3) take any other action at law or in equity which may appear necessary or desirable to collect any amounts then due or thereafter to become due hereunder and to enforce the obligations, agreements or covenants of the Company under this Project Benefits Agreement.

(B) No action taken pursuant to this Section 4.01 (including repossession of the Project Facility) shall relieve the Company from its obligations to make all payments required by this Project Benefits Agreement and the other Basic Documents.

SECTION 4.03. RECAPTURE OF FINANCIAL ASSISTANCE. (A) General. Upon the occurrence of a Recapture Event that occurs during the Recapture Period, the Agency may require the Company to provide for the recapture of the project financial assistance (the “Project Financial Assistance”), all in accordance with the terms of this Section 4.03. The Company hereby agrees, if requested by the Agency, to pay to the Agency the recapture of the Project Financial Assistance, as provided in this Section 4.03.

(B) Project Financial Assistance to be Recaptured. The Project Financial Assistance to be recaptured by the Agency upon the occurrence of a Recapture Event during a Recapture Period shall be an amount equal to the sum of the following:

(1) the portion of the amount of New York State sales and use taxes allocable to Albany County that the Company would have paid in connection with the undertaking of the Project if the Project Facility was privately owned by the Company and not deemed owned or under the jurisdiction and control of the Agency;

(2) the amount of any mortgage recording tax exemption provided by the Agency to the Company in connection with the undertaking of the Project; and

(3) the difference between the amount of the payment in lieu of tax payments paid by the Company under the Payment in Lieu of Tax Agreement and the amount of the general real property ad valorem taxes that would have been payable by the Company to the Taxing Entities if the Project Facility was privately owned by the Company and not deemed owned or under the jurisdiction and control of the Agency.

(C) Amount of Project Financial Assistance to be Recaptured. Upon the occurrence of a Recapture Event, the Company may be required to pay the following amounts as recapture:

Year	Amount of Recapture
2016	100%
2017	95%
2018	90%
2019	85%
2020	80%
2021	75%
2022	70%
2023	65%
2024	60%
2025	55%
2026	50%
2027	45%
2028	40%
2029	35%
2030	30%
2031	25%
2032	20%
2033	15%
2034	10%
2035	5%
2036 and thereafter	0%

(D) Survival of Obligations. The Company acknowledges that the obligations of the Company in this Section 4.03 shall survive the conveyance of the Project Facility to the Company and the termination of the Lease Agreement.

SECTION 4.04. LATE PAYMENTS. (A) One Month. If the Company shall fail to make any payment required by this Project Benefits Agreement within thirty days of the date that written notice of such

payment is sent from the Agency to the Company at the address provided in Section 4.05 of this Project Benefits Agreement, the Company shall pay the amount specified in such notice together with a late payment penalty equal to five percent (5%) of the amount due.

(B) Thereafter. If the Company shall fail to make any payment required by this Project Benefits Agreement when due and such delinquency shall continue beyond the thirty days after such notice, the Company's obligation to make the payment so in default shall continue as an obligation of the Company to the Agency until such payment in default shall have been made in full, and the Company shall pay the same to the Agency together with (1) a late payment penalty of one percent (1%) per month for each month, or part thereof, that the payment due hereunder is delinquent beyond the first month, plus (2) interest thereon, to the extent permitted by law, at the greater of (a) one percent (1%) per month, or (b) the rate per annum which would be payable if such amount were delinquent taxes, until so paid in full.

SECTION 4.05. PAYMENT OF ATTORNEY'S FEES AND EXPENSES. If the Company should default in performing any of its obligations, covenants or agreements under this Project Benefits Agreement and the Agency should employ attorneys or incur other expenses for the collection of any amounts payable hereunder or for the enforcement of performance or observance of any obligation, covenant or agreement on the part of the Company herein contained, the Company agrees that it will, on demand therefor, pay to the Agency not only the amounts adjudicated due hereunder, together with the late payment penalty and interest due thereon, but also the reasonable fees and disbursements of such attorneys and all other expenses, costs and disbursements so incurred, whether or not an action is commenced.

SECTION 4.06. REMEDIES; WAIVER AND NOTICE. (A) No Remedy Exclusive. No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Project Benefits Agreement or now or hereafter existing at law or in equity or by statute.

(B) Delay. No delay or omission in exercising any right or power accruing upon the occurrence of Recapture Event hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

(C) Notice Not Required. In order to entitle the Agency to exercise any remedy reserved to it in this Project Benefits Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Project Benefits Agreement.

(D) No Waiver. In the event any provision contained in this Project Benefits Agreement should be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Project Benefits Agreement shall be established by conduct, custom or course of dealing.

ARTICLE V

MISCELLANEOUS

SECTION 5.01. TERM. (A) General. This Project Benefits Agreement shall become effective and the obligations of the Company shall arise absolutely and unconditionally upon the execution and delivery of this Project Benefits Agreement by the Company and the Agency. Unless otherwise provided by amendment hereof, this Project Benefits Agreement shall continue to remain in effect until December 31, 2036.

SECTION 5.02. FORM OF PAYMENTS. The amounts payable under this Project Benefits Agreement shall be payable in such coin and currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

SECTION 5.03. COMPANY ACTS. Where the Company is required to do or accomplish any act or thing hereunder, the Company may cause the same to be done or accomplished with the same force and effect as if done or accomplished by the Company.

SECTION 5.04. AMENDMENTS. This Project Benefits Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

SECTION 5.05. NOTICES. (A) General. All notices, certificates or other communications hereunder shall be in writing and may be personally served, telecopied or sent by courier service or United States mail and shall be sufficiently given and shall be deemed given when (1) delivered in person or by courier to the applicable address stated below, (2) when received by telecopy or (3) three business days after deposit in the United States, by United States mail (registered or certified mail, postage prepaid, return receipt requested, property addressed), or (4) when delivered by such other means as shall provide the sender with documentary evidence of such delivery, or when delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery.

(B) Addresses. The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

IF TO THE COMPANY:

122 2nd Street Association, LLC
172 River Street, Suite D
Troy, New York 12180
Attention: Thomas Rossi, Manager

WITH A COPY TO:

Sciocchetti & Abbott, PLLC
12 Century Hill Drive
Latham, New York 12110
Attention: Paul V. Sciocchetti, Esq.

IF TO THE AGENCY:

Albany County Industrial Development Agency
112 State Street
Albany, New York 12207
Attention: Chairman

WITH A COPY TO:

The Forman Law Firm
68 Simmons Avenue
Cohoes, New York 12047
Attention: Walter J. Forman, Esq.

and

Hodgson Russ LLP
677 Broadway, Suite 301
Albany, New York 12207
Attention: A. Joseph Scott, III, Esq.

(C) Change of Address. The Agency and the Company may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

SECTION 5.06. BINDING EFFECT. This Project Benefits Agreement shall inure to the benefit of, and shall be binding upon, the Agency, the Company and their respective successors and assigns. The provisions of this Project Benefits Agreement are intended to be for the benefit of the Agency.

SECTION 5.07. SEVERABILITY. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Project Benefits Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Project Benefits Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

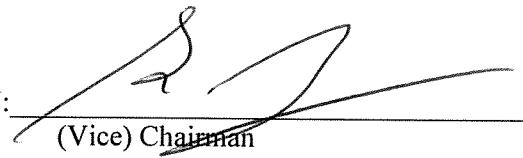
SECTION 5.08. COUNTERPARTS. This Project Benefits Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 5.09. APPLICABLE LAW. This Project Benefits Agreement shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the Agency and the Company have caused this Project Benefits Agreement to be executed in their respective names by duly authorized officers thereof, all being done as of the date first above written.

ALBANY COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

BY:


(Vice) Chairman

122 2ND STREET ASSOCIATION, LLC

BY: _____

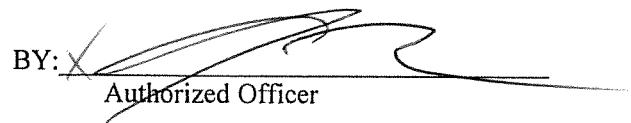
Authorized Officer

IN WITNESS WHEREOF, the Agency and the Company have caused this Project Benefits Agreement to be executed in their respective names by duly authorized officers thereof, all being done as of the date first above written.

ALBANY COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____
(Vice) Chairman

122 2ND STREET ASSOCIATION, LLC

BY: 
Authorized Officer

STATE OF NEW YORK)
)ss:
COUNTY OF ALBANY)

On the 17th day of February, in the year 2015, before me, the undersigned, personally appeared GARY DOMALEWICZ, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

A. Joseph Scott III
Notary Public, State of New York
Qualified in Albany County
No. 02SC4811591
Commission Expires December 31, 2018

STATE OF NEW YORK)
County of Albany)
COUNTY OF ALBANY)

On the 8th day of March, in the year 2015, before me, the undersigned, personally appeared James T. Rossi, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

JILL M. ARNOLD
Notary Public, State of New York
No. 01AR6157354
Qualified in Albany County
Commission Expires Dec. 4, 2018

EXHIBIT A

QUARTERLY REPORT

- SEE ATTACHED -

Withholding
identification number

41329429

Part D - Form NYS-1 corrections/additions

Use Part D only for corrections/additions for the quarter being reported in Part B of this return. To correct original withholding information reported on Form(s) NYS-1, complete columns a, b, c, and d. To report additional withholding information not previously submitted on Form(s) NYS-1, complete only columns c and d. Lines 12 through 15 on the front of this return must reflect these corrections/additions.

a Original last payroll date reported on Form NYS-1, line A (mmdd)	b Original total withheld reported on Form NYS-1, line 4	c Correct last payroll date (mmdd)	d Correct total withheld
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Category	Sub-Category	Definition	Example
A	1	Sub-Category 1.1	Example 1.1.1
	2	Sub-Category 1.2	Example 1.2.1
B	1	Sub-Category 2.1	Example 2.1.1
	2	Sub-Category 2.2	Example 2.2.1
C	1	Sub-Category 3.1	Example 3.1.1
	2	Sub-Category 3.2	Example 3.2.1
D	1	Sub-Category 4.1	Example 4.1.1
	2	Sub-Category 4.2	Example 4.2.1
E	1	Sub-Category 5.1	Example 5.1.1
	2	Sub-Category 5.2	Example 5.2.1
F	1	Sub-Category 6.1	Example 6.1.1
	2	Sub-Category 6.2	Example 6.2.1
G	1	Sub-Category 7.1	Example 7.1.1
	2	Sub-Category 7.2	Example 7.2.1
H	1	Sub-Category 8.1	Example 8.1.1
	2	Sub-Category 8.2	Example 8.2.1
I	1	Sub-Category 9.1	Example 9.1.1
	2	Sub-Category 9.2	Example 9.2.1
J	1	Sub-Category 10.1	Example 10.1.1
	2	Sub-Category 10.2	Example 10.2.1
K	1	Sub-Category 11.1	Example 11.1.1
	2	Sub-Category 11.2	Example 11.2.1
L	1	Sub-Category 12.1	Example 12.1.1
	2	Sub-Category 12.2	Example 12.2.1
M	1	Sub-Category 13.1	Example 13.1.1
	2	Sub-Category 13.2	Example 13.2.1
N	1	Sub-Category 14.1	Example 14.1.1
	2	Sub-Category 14.2	Example 14.2.1
O	1	Sub-Category 15.1	Example 15.1.1
	2	Sub-Category 15.2	Example 15.2.1
P	1	Sub-Category 16.1	Example 16.1.1
	2	Sub-Category 16.2	Example 16.2.1
Q	1	Sub-Category 17.1	Example 17.1.1
	2	Sub-Category 17.2	Example 17.2.1
R	1	Sub-Category 18.1	Example 18.1.1
	2	Sub-Category 18.2	Example 18.2.1
S	1	Sub-Category 19.1	Example 19.1.1
	2	Sub-Category 19.2	Example 19.2.1
T	1	Sub-Category 20.1	Example 20.1.1
	2	Sub-Category 20.2	Example 20.2.1
U	1	Sub-Category 21.1	Example 21.1.1
	2	Sub-Category 21.2	Example 21.2.1
V	1	Sub-Category 22.1	Example 22.1.1
	2	Sub-Category 22.2	Example 22.2.1
W	1	Sub-Category 23.1	Example 23.1.1
	2	Sub-Category 23.2	Example 23.2.1
X	1	Sub-Category 24.1	Example 24.1.1
	2	Sub-Category 24.2	Example 24.2.1
Y	1	Sub-Category 25.1	Example 25.1.1
	2	Sub-Category 25.2	Example 25.2.1
Z	1	Sub-Category 26.1	Example 26.1.1
	2	Sub-Category 26.2	Example 26.2.1

Part E - Change of business information

22. This line is not in use for this quarter.

23. If you **permanently ceased paying wages**, enter the date (*mmddyy*) of the final payroll (see Note below)

24. If you **sold or transferred all or part of your business**:

- Mark an **X** to indicate whether in **whole** or in **part**
- Enter the date of transfer (*mmddyy*)
- Complete the information below about the acquiring entity

Legal name	EIN
Address	

Note: For questions about other changes to your withholding tax account, call the Tax Department at (518) 485-6654; for your unemployment insurance account, call the Department of Labor at (518) 485-8589 or 1 888 899-8810. If you are using a paid preparer or a payroll service, the section below must be completed.

Paid preparer's use	Preparer's signature	Date	Preparer's NYTPRIN	Preparer's SSN or PTIN	Mark an <i>X</i> if self-employed <input type="checkbox"/>
	Preparer's firm name (<i>or yours, if self-employed</i>)	Address	Firm's EIN	Telephone number ()	
Payroll service's name		Payroll service's EIN			

Checklist for mailing:

- File original return and keep a copy for your records.
- Complete lines 9 and 19 to ensure proper credit of payment.
- Enter your withholding ID number on your remittance.
- Make remittance payable to **NYS Employment Contributions and Taxes**.
- Enter your telephone number in boxes below your signature.
- See *Need help?* on Form NYS-45-I if you need forms or assistance.

Mail to:

**NYS EMPLOYMENT
CONTRIBUTIONS AND TAXES
PO BOX 4119
BINGHAMTON NY 13902-4119**

NYS-45 (2/13) (back)

EXHIBIT B
STATUS REPORT

COMPANY NAME: _____

ADDRESS: _____

TYPE OF BUSINESS: _____

CONTACT PERSON: _____

TELEPHONE NUMBER: _____

	Professional	Skilled	Semi-Skilled	Un-Skilled	Total
Full Time					
Part Time					
Seasonal					

Officer's Certification

I, the Undersigned, duly elected and appointed _____ (*Title*) of 122 2ND STREET ASSOCIATION, LLC, a limited liability company organized and existing under the laws of the State of New York (the "Company"), do hereby certify, pursuant to the requirements of a Project Benefits Agreement dated as of June 1, 2015 by and between the Company and Albany County Industrial Development Agency, that all information provided on this form is complete, true and accurate.

_____ (*Officer's Signature*)

_____ (*Printed*)

EXHIBIT C
SIGN POSTING REQUIREMENTS

1. The dimensions of the sign shall be determined by the staff of the Agency. However, the maximum size of the sign shall be no more than 4 feet by 8 feet.
2. Graphics contained on the sign shall be prepared by the Company and delivered to the Agency, and shall be subject to the review and comment of the Agency.
3. The sign shall be posted on the site of the Project and shall be visible from the public street adjacent to the site of the Project.
4. The sign shall be posted for a period beginning no later than thirty (30) days following the Closing Date and ending no earlier than ninety (90) days following the Completion Date.
5. The size, graphics, location and period of posting of the sign shall be subject to final review and approval by the staff of the Agency.
6. All costs associated with the preparation and placement of the sign shall be borne by the Company.