

FAYETTE MANLIUS, LLC

**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A CONSENT
AND SUBORDINATION AGREEMENT AND RELATED DOCUMENTS
(3101-22-01A)**

A regular meeting of the Onondaga County Industrial Development Agency convened in public session on July 20, 2023, at 8:30 a.m., local time at Oncenter Convention Center, lower level meeting rooms 1/2/3, located at 800 South State Street, Syracuse, New York.

The meeting was called to order by the (Vice) Chairman of the Agency and, upon roll being called, the following members of the Agency were:

PRESENT: Patrick Hogan
Janice Herzog
Kevin Ryan
Cydney Johnson

ABSENT: Susan Stanczyk
Fanny Villarreal
Elizabeth Dreyfuss

ALSO PRESENT: Robert M. Petrovich, Executive Director
Jeffrey W. Davis, Esq., Agency Counsel

The following resolution was offered by Janice Herzog, seconded by Kevin Ryan, to wit:

**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY
OF CONSENT AND SUBORDINATION AGREEMENT AND
RELATED DOCUMENTS.**

WHEREAS, Onondaga County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 435 of the Laws of 1970 of the State of New York and Chapter 676 of the Laws of 1975, as amended, constituting Section 895 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, warehousing, research, commercial and industrial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more "projects" (as defined in

the Act), or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, on or about February 27, 2023, the Agency undertook a project (the “Project”) on behalf of Fayette Manlius, LLC (the “Company”), said Project consisting of the following: (A)(1) the acquisition of a leasehold interest in all or a portion of an approximately 4.28 acre parcel of land located at 332 Fayette Street (tax map no. 024.-01-08.1), in the Village of Manlius, Onondaga County, New York (the “Land”) and the existing 17,053 square foot building located thereon (the “Existing Building”); (2) the demolition of the Existing Building and the construction of an approximately 37,500 square foot mixed-used building containing retail space on the first floor and approximately twenty apartment units on the second and third floors (the “Mixed Use Building”) and an approximately 3,500 square foot building for an urgent care facility (the “Urgent Care Facility”), together with related site improvements including but not limited to parking space (all of the foregoing, collectively, the “Facility”), such Urgent Care Facility to be leased to a third party tenant; and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the “Equipment”) (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”); (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 estate transfer taxes and mortgage recording taxes (subject to certain statutory limitations) (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, in connection with the Project and the granting of the Financial Assistance, the Agency entered into the following documents (hereinafter collectively referred to as the “Company Documents”): (A) an underlying lease (and a memorandum thereof) dated as of February 1, 2023 (the “Underlying Lease”) by and between the Company and the Agency, pursuant to which, among other things, the Agency acquired a leasehold interest in the Land and the improvements now or hereafter located on the Land from the Company; (B) a lease agreement (and a memorandum thereof) dated as of February 1, 2023 (the “Lease Agreement”) by and between the Agency and the Company, pursuant to which, among other things, the Company agreed to undertake and complete the Project as agent of the Agency and the Company further agreed to lease the Company Project Facility from the Agency and, as rental thereunder, to pay the Agency’s administrative fee relating to the Project and to pay all expenses incurred by the Agency with respect to the Project; (C) a company project agreement dated as of February 1, 2023 (the “Project Agreement”), which sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; (D) a payment in lieu of tax agreement dated as of February 1, 2023 by and between the Agency and the Company (the “PILOT Agreement”) whereby the Company agreed to make certain payments in lieu of real property taxes with respect to the portion of the Project related to the Mixed Use Building; and (E) various certificates relating to the Project (the “Certificates”); and

WHEREAS, with respect to the portion of the Land containing the Urgent Care Facility, the relevant Company Documents are subordinate to a mortgage and security agreement made by the Company to Chemung Canal Trust Company (the “Lender”) securing a loan in the amount of \$2,975,000 and interest, dated October 21, 2022 and recorded October 27, 2022 and a building and permanent loan agreement dated October 21, 2022 and filed October 27, 2022

securing a loan in the amount of \$2,975,000 between the Lender and the Company and Fayette Manlius II SRE LLC; and an assignment of lease and rents from the Company to the Lender, recorded October 27, 2022; and

WHEREAS, the Company intends to further finance a portion of the Land containing the Urgent Care Facility with one or more loans from the Lender and has requested that the Agency further subordinate the relevant Company Documents pursuant to a consent and subordination agreement and such other documents satisfactory to the Agency, upon advice of counsel, in both form and substance (collectively, the “Subordination Documents”); 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”), the Agency must determine the potential environmental significance of subordinating the relevant Company Documents and executing and delivering the Subordination Documents (the “Transaction”);

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONONDAGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. Pursuant to SEQRA, the Agency hereby finds and determines that:

(A) Pursuant to Section 617.5(c)(26) of the Regulations, the Transaction is a “Type II action” (as said quoted term is defined in the Regulations); and

(B) Therefore, the Agency hereby determines that no environmental impact statement or any other determination or procedure is required under the Regulations with respect to the Transaction.

Section 2. The Agency hereby finds and determines that by virtue of the Act, that:

(A) The Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) It is desirable and in the public interest for the Agency to consent to the Transaction.

Section 3. The Chairman (or Vice Chairman) and the Executive Director of the Agency, upon advice of counsel, are each hereby authorized and directed to negotiate, execute and deliver, on behalf of the Agency, upon advice of counsel, the necessary documents to effectuate the Transaction, including but not limited to any necessary amendments to the Company Documents, the execution thereof by the Chairman, Vice Chairman and/or the Executive Director to constitute conclusive evidence of such approval, and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution; provided however, that as a condition precedent to the Transaction, the Company and the Lender shall execute and deliver any and all necessary documents required by the Agency to effectuate the

Transaction; and the Company shall pay the Agency's related fees and costs associated with the Transaction, including but not limited to its legal fees.

Section 4. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or to effectuate the Transaction, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Transaction, respectively, binding upon the Agency.

Section 5. No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

Section 6. The Chairman (or Vice Chairman) and the Executive Director of the Agency are each hereby authorized to distribute copies of this Resolution to the Company and the Assignee and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 7. This Resolution shall take effect immediately upon adoption.

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

	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Patrick Hogan	X		
Janice Herzog	X		
Cydney Johnson	X		
Elizabeth Dreyfuss			X
Susan Stanczyk			X
Kevin Ryan	X		
Fanny Villarreal			X

The Resolution was thereupon declared duly adopted.

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

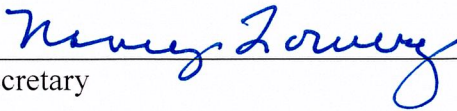
I, the undersigned Secretary of the Onondaga County Industrial Development Agency, DO HEREBY CERTIFY that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on July 20, 2023, with the original thereof on file in my office, and that the same is a true and correct copy of such proceedings of the Agency and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matter therein referred to.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 24 day of July, 2023.

(SEAL)


Secretary