

1025 II LLC - Consent Resolution

A regular meeting of the Nassau County Industrial Development Agency (the “Agency”) was convened in public session at the Theodore Roosevelt Executive & Legislative Building, Ceremonial Chambers, 1550 Franklin Avenue, Mineola, Nassau County, New York on March 31, 2022 at 6:45 p.m., local time.

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

PRESENT:

Richard Kessel	Chairman
Lewis M. Warren	Vice Chairman
Anthony Simon	2nd Vice Chairman
Amy Flores	Treasurer
John Coumatos	Asst. Treasurer
Chris Fusco	Asst. Secretary
Timothy Williams	Secretary

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Harry Coghlan	Chief Executive Officer / Executive Director
Anne LaMorte	Chief Financial Officer
Catherine Fee	Director of Business Development/Chief Marketing Officer
Carlene Wynter	Compliance Assistant
Nicole Gil	Administrative Assistant
Thomas D. Glascock, Esq.	General Counsel
Andrew D. Komaromi, Esq.	Bond/Transactional Counsel

The attached resolution no. 2022-19 was offered by Christopher Fusco, seconded by Richard Kessel.

Resolution No. 2022-19

RESOLUTION OF THE NASSAU COUNTY INDUSTRIAL DEVELOPMENT
AGENCY AUTHORIZING CERTAIN MATTERS IN CONNECTION WITH ITS
STRAIGHT-LEASE TRANSACTION WITH 1025 OCR LLC

WHEREAS, the Nassau 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 674 of the 1975 Laws of New York, as amended, constituting Section 922 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, industrial and commercial 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, 1025 OCR LLC (the "Original Company") and MAZEL PRODUCTIONS LLC, each a limited liability company organized and existing under the laws of the State of New York (together, the "Applicants"), presented an application for financial assistance (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "2016 Project") consisting of the following: (A)(1) the acquisition of an interest in one or more parcels of land, aggregating approximately 3.35 acres, located at 1025 Old Country Road, 19 and 51 State Street, and 60 Brooklyn Avenue, Westbury, Town of North Hempstead, Nassau County, New York (Section: 11; Block: 79; Lots: 246, 248 and 279 and Section: 11; Block: 80; Lots: 92, 243) (the "Land"), (2) the renovation of the existing approximately 165,395 square foot building on the Land (the "Building"), together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the "Equipment"), all of the foregoing for use by the Applicants as a multi-tenant telecommunications, data center and office facility (collectively, the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing; (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicants or such other entity as may be designated by the Applicants and agreed upon by the Agency; and (D) the sublease of the Project Facility by the Applicants (or such other entity as may be designated by the Applicants and agreed upon by the Agency) to one (1) or more tenants designated by the Applicants and agreed upon by the Agency; and

WHEREAS, the Applicants received "financial assistance" with respect to the Project Facility from the Agency, which included exemptions or partial exemptions from sales and use

taxes, mortgage recording taxes and real property taxes (collectively, the "2016 Financial Assistance"); and

WHEREAS, the Applicants have requested that the Agency provide certain additional financial assistance in the form of an amended exemption or partial exemption from real property taxes (the "2017 Project" and together with the 2016 Project, the "Project") consisting of: (i) adding to the Land and the Project Facility certain lots to be used for parking associated with the Project Facility (the "2017 Project Facility" and together with the 2016 Project Facility, the "Project Facility") so that the Land and Project Facility shall be comprised of the following: (Section: 11 Block: 79 Lot: 246 (35 State Street, Westbury, NY); Section: 11 Block: 79 Lot: 248 (43 State Street, Westbury, NY); Section: 11 Block: 79 Lot: 253 (51 State Street, Westbury, NY); Section: 11 Block: 79 Lot: 279 (44 Brooklyn Avenue, Westbury, NY); Section: 11 Block: 80 Lot: 92 (1025 Old Country Road, Westbury, NY); Section: 11 Block: 80 Lot: 243 (67 Bond Street, Westbury, NY); Section: 11 Block: 79 Lot: 242 (25 State Street, Westbury, NY); Section: 11 Block: 79 Lot: 258 (60 Brooklyn Avenue, Westbury, NY); and Section: 11 Block: 79 Lot: 319 (19 State Street, Westbury, NY)) and (ii) resetting the base year PILOT amount as a result of a recently entered into Stipulation of Settlement regarding the assessed value of the 2016 Project Facility and the 2017 Project Facility (collectively, the "Additional Financial Assistance"); and

WHEREAS, the Applicants received the Additional Financial Assistance; and

WHEREAS, pursuant to a notification and consent request letter dated February 21, 2019 (the "Assignment Request"), the Original Company and 1025 II LLC, a New York limited liability company, (the "Company") requested that the Agency consent to (a) (i) the transfer of the Original Company's interest in the Project Facility to the Company and (b) the assignment of the Lease and the other Transaction Documents by the Original Company to the Company (including the assignment, amendment or restatement of finance mortgages); and

WHEREAS, the Agency consented to such Assignment Request on February 28, 2019 pursuant to Resolution No. 2019-10; and

WHEREAS, pursuant to a notification and consent request letter dated July 13, 2021 (the "2021 Consent Request"), the Company has requested that the Agency consent to the change in the manager with day-to-day control of the management and operation of the Company from Jeffrey Wasserman to SteeleHarbour Management Company LLC; and

WHEREAS, the Agency consented to such 2021 Consent Request on July 22, 2021 pursuant to Resolution No. 2021 – 55; and

WHEREAS, pursuant to a notification and consent request letter dated March 23, 2022 (the "Consent Request"), the Company has requested that the Agency consent to (a) the change in the manager with day-to-day control of the management and operation of the Company from Jeffrey Wasserman to Nicholas Florio, in lieu of SteeleHarbour Management Company LLC; and (b) the restructuring of the ownership of the Company's parent entity (1025 SWBS LLC) to convert Pembroke OCR Investors I LLC's ownership share thereof into a mezzanine debt (the "Proposed Transaction"); with the right of Pembroke OCR Investors I LLC to obtain an

ownership interest in 1025 SWBS LLC upon a default of 1025 SWBS LLC under the mezzanine debt; upon notice to but without further consent of the Agency (the “Proposed Transaction”); and

WHEREAS, the Agency is willing to consent to such request, subject to the terms of this Resolution;

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

Section 1. Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Lease.

Section 2. The Agency hereby ratifies, confirms and approves all actions heretofore taken by the Chairman, the Vice Chairman, Chief Executive Officer/Executive Director, Chief Operating Officer and the staff of the Agency with respect to the Consent and Waiver and other matters contemplated by this Resolution, including, without limitation, those actions required to ensure full compliance with the requirements of the Act, Article 8 of the Environmental Conservation Law (the “SEQR Act”) and the regulations adopted pursuant thereto (the “Regulations” and together with the SEQR Act, collectively, “SEQRA”), and all other Applicable Laws that relate thereto.

Section 3. The Agency determines that the Applicant's request with respect to previously approved and unchanged Project is a Type II Action pursuant to SEQRA involving “continuing agency administration” which does not involve “new programs or major reordering of priorities that may affect the environment” (6 NYCRR §617.5(c)(20)) and therefore no Findings or determination of significance are required under SEQRA.

Section 4. No additional Financial Assistance is being requested by the Applicant with respect to this request, and, therefore, no public hearing of the Agency is required pursuant to Section 859-a of the Act.

Section 5. The Agency hereby consents to the Proposed Transaction as outlined in the Consent Request, subject, however, to the delivery of evidence satisfactory to the Chairman, Vice Chairman, Chief Executive Officer/Executive Director, Chief Operating Officer or Administrative Director that (i) the Company is in compliance with its employment and employment reporting obligations under the Transaction Documents, and (ii) the Company is not otherwise in default of any obligation under the Transaction Documents. The execution and delivery of amendment documents and agreements required to effectuate the Proposed Transaction (collectively, the “Amendment Documents”), being substantially in the forms utilized by the Agency for prior transactions, are hereby authorized and approved. The Chairman, Executive Director, Deputy Executive Director and Administrative Director of the Agency are each hereby authorized, acting individually or jointly, to execute, acknowledge and deliver the Amendment Documents. The execution and delivery of the Amendment Documents by any one of said officers shall be conclusive evidence of due authorization and approval.

Section 6. The Agency hereby determines that the Agency has fully complied with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the requested consents.

Section 7. The Chairman, the Vice Chairman, the Chief Executive Officer/Executive Director, Chief Operating Officer and Administrative Director of the Agency are each hereby designated an Authorized Representative of the Agency and each of them is hereby authorized and directed, acting individually or jointly, to execute and deliver any and all consents, agreements, papers, instruments, opinions, certificates, affidavits and other documents required in connection with the Transaction Documents (collectively, the "Consent Documents"), and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, including, without limitation, taking any necessary action to obtain consent of any other person or party necessary with respect to execution, delivery and approval of the Consent Documents.

Section 8. The authorizations set forth in this Resolution are subject to the conditions that the Applicant shall reimburse the Agency for all costs and expenses incurred by the Agency in connection with the transactions contemplated herein, including, without limitation, the Agency's consent and amendment fees and all reasonable attorneys' fees and disbursements incurred by the Agency, including without limitation, the fees and expenses of Special Counsel, Harris Beach PLC.

Section 9. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution and the Consent Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Agency and its successors from time to time; provided, however, that no covenants, stipulations, obligations or agreements of the Agency contained in this Resolution, any Consent Document shall give rise to any pecuniary liability of the Agency or a charge against its general credit or shall obligate the Agency in any way except to the extent that the same can be paid or recovered from the Project Facility or the sale or liquidation of the Project Facility or revenues therefrom.

No covenant, stipulation, obligation or agreement herein contained or contained in any Consent Document shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity and neither the members of the Agency nor any officer executing any Consent Document shall be liable personally on the Consent Documents or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 10. The Chairman and Chief Executive Officer/Executive Director of the Agency are each hereby authorized to approve modifications to the terms approved herein which are not inconsistent with the intent and substance of this Resolution, such approval to be evidenced by the execution by any one of such officers of the Consent Documents containing such modifications.

Section 11. Notwithstanding any provision in the Transaction Documents to the contrary, the Agency's consent does not and shall not be construed to mean that there are no defaults or

events of default under the Project Agreement or any other Transaction Document or that any such defaults or events of default have been or shall be waived by the Agency.

Section 12. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly

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

Richard Kessel	VOTING	AYE
Lewis M. Warren	VOTING	AYE
Anthony Simon	VOTING	AYE
Timothy Williams	VOTING	AYE
Chris Fusco	VOTING	AYE
Amy Flores	VOTING	AYE
John Coumatos	VOTING	AYE

The foregoing Resolution was thereupon declared duly .

STATE OF NEW YORK

) SS.:

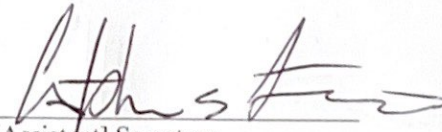
COUNTY OF NASSAU

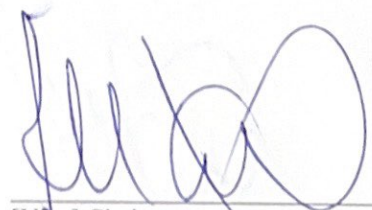
We, the undersigned [Vice] Chairman and [Assistant] Secretary of the Nassau County Industrial Development Agency (the "Agency"), do hereby certify that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on March 31, 2022 with the original thereof on file in our office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE 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.

WE 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, we have hereunto set our respective hands and affixed the seal of the Agency this 31st day of March 2022.


[Assistant] Secretary


[Vice] Chairman

(SEAL)