

**RESOLUTION INDUCING THE FINANCING OF A FACILITY FOR
THE BENEFIT OF WESTERN BEEF RETAIL, INC. AS A
STRAIGHT-LEASE TRANSACTION AND AUTHORIZING THE
EXECUTION AND DELIVERY OF AGREEMENTS IN
CONNECTION THEREWITH**

WHEREAS, the New York City Industrial Development Agency, New York, New York (the “Agency”) is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Chapter 1082 of the 1974 Laws of New York, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, Western Beef Retail, Inc. (the “Applicant”), has entered into negotiations with officials of the Agency for the renovation, furnishing and equipping of a commercial facility (the “Facility”), consisting of an approximately 16,000 square foot facility on an approximately 34,150 square foot parcel of land in Brooklyn, New York, all for the use by the Applicant as a supermarket, for lease to the Agency by a real estate holding company, Western Beef Properties Inc., or another real estate holding company affiliated with the Applicant (the “Company”), and sublease by the Agency to the Company for subsequent sub-sublease in whole to the Applicant, and having an approximate total project cost of approximately \$3,180,000 (the “Project”); and

WHEREAS, the Applicant has submitted an application with respect to the Project (the “Application”) to the Agency to initiate the accomplishment of the above; and

WHEREAS, the Application sets forth certain information with respect to the Applicant and the Project, including the following: that the Applicant and the Project will meet all requirements of the City’s Food Retail Expansion to Support Health Program (“FRESH”); that the Applicant is currently located in The City of New York (the “City”); and employs approximately 8.5 full time equivalent employees within the City; that the Applicant expects to employ approximately 38 additional full time equivalent employees within the three years following the completion of the Project; that the Applicant must obtain Agency financial assistance in the form of a straight-lease transaction to enable the Applicant to proceed with the Project and thereby remain and expand its operations in the City; and that, based upon the financial assistance provided through the Agency, the Applicant desire to proceed with the Project and remain and expand its operations in the City; and

WHEREAS, the Agency held a public hearing with respect to the Project on June 9, 2016; and

WHEREAS, based upon the Application, the Agency hereby determines that Agency financial assistance and related benefits in the form of a straight-lease transaction between the Agency and the Applicant are necessary to induce the Applicant to proceed with the Project; and

WHEREAS, in order to provide financial assistance to the Applicant and the Company for the Project, the Agency intends to grant the Applicant and the Company financial assistance through a straight-lease transaction in the form of real property tax exemptions and sales tax exemptions all pursuant to the Act;

**NOW, THEREFORE, NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY
HEREBY RESOLVES AS FOLLOWS:**

Section 1. The Agency hereby determines that the Project and the providing of financial assistance to the Applicant and the Company pursuant to the Act in the form of a straight-lease transaction will promote and is authorized by and will be in furtherance of the policy of the State of New York as set forth in the Act and hereby authorizes the Applicant and the Company to proceed with the Project. The Agency further determines that:

(a) the Project shall not result in the removal of any facility or plant of the Applicant or the Company or any other occupant or user of the Facility from outside of the City (but within the State of New York) to within the City or in the abandonment of one or more facilities or plants of the Applicant or any other occupant or user of the Facility located within the State of New York (but outside of the City);

(b) no funds of the Agency shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promotional materials which depict elected or appointed government officials in either print or electronic media, nor shall any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State of New York; and

(c) that the Project will make available goods and services which would not, but for the Project, be reasonably accessible to the residents of the area within which the proposed Project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services within the meaning of Section 862(2)(b)(i) of the New York General Municipal Law.

Section 2. To accomplish the purposes of the Act and to provide financial assistance to the Applicant and the Company for the Project, a straight-lease transaction is hereby authorized subject to the provisions of this Resolution.

Section 3. The Agency authorizes the Applicant and the Company to proceed with the Project on behalf of the Agency in accordance with this Resolution, the Company Lease Agreement and the Agency Lease Agreement; provided, however, that it is acknowledged and agreed by the Applicant and the Company that (i) the leasehold interest of the Agency in the Facility shall be for purposes of granting financial assistance, and (ii) the Applicant and the Company are hereby constituted the agents for the Agency solely for the purpose of undertaking the Project in accordance with the Agency Lease Agreement, and neither the Agency nor any of its members, directors, officers, employees or agents (other than the Applicant, as aforesaid) shall have personal liability for any such action taken by the Applicant or the Company or any director, officer, employee, agent or affiliate of either, for such purpose.

Section 4. The execution and delivery of a Company Lease Agreement, an Agency Lease Agreement, and a Sales Tax Letter from the Agency to the Applicant (each document referenced in this Section 4 being, collectively, the "Agency Documents"), each being substantively the same as approved by the Agency for prior transactions, is hereby authorized. The Chairman, Vice Chairman, Executive Director, Deputy Executive Director and General Counsel of the Agency are each hereby authorized to execute, acknowledge and deliver each such Agency Document. The execution and delivery of each such agreement by one of said officers shall be conclusive evidence of due authorization and approval.

Section 5. The officers of the Agency are hereby designated the authorized representatives of the Agency, and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution. The Agency recognizes that due to the unusual complexities of the transaction it may become necessary that certain of the terms approved hereby may require modifications which will not affect the intent and substance of the authorizations and approvals by the Agency herein. The Agency hereby authorizes the Chairman, Vice Chairman, Executive Director, Deputy Executive Director or General Counsel to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution.

Section 6. The officers of the Agency and other appropriate officials of the Agency and its agents and employees are hereby authorized and directed to take whatever steps may be necessary to cooperate with the Applicant and the Company to assist in the Project.

Section 7. Any costs and expenses incurred by the Agency with respect to the Project and the financial assistance contemplated by this Resolution shall be paid by the Applicant, whether or not the Applicant proceeds with the financing of the Project as contemplated herein or financial assistance by the Agency to the Applicant, through the straight lease transaction between the Agency and the Applicant, is provided as herein authorized (other than by the sole fault of the Agency). By acceptance hereof, the Applicant agrees to pay such costs and expenses and further agrees to indemnify the Agency, its members, directors, officers, employees and agents and hold the Agency and such persons harmless against claims for any loss, liability, damage or injury or cost or expense incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Project and the financing thereof.

Section 8. This Resolution is subject to the approval of a private investigative report with respect to the Applicant and the Company. The provisions of this Resolution shall continue to be effective until one year from the date hereof whereupon the Agency may, at its option, terminate the effectiveness of this Resolution (except with respect to the matters contained in Section 7 hereof) unless prior to the expiration of such year the Agency shall by subsequent resolution extend the effective period of this Resolution.

Section 9. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution, the Agency Documents or any documents related thereto and authorized hereby (collectively, the "Project 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 and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Agency or the officers thereof by the provisions of this Resolution or any of the Project Documents shall be exercised or performed by the Agency or such officers, or by officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in any Project Document shall be deemed to be a covenant, stipulation, obligation or agreement of any member, director, officer, agent or employee of the Agency in his or her individual capacity thereof and neither the members nor the directors of the Agency nor any officer executing any Project Document shall be liable personally for any amounts payable thereunder or arising from claims thereon or be subject to any personal liability or accountability by reason of the execution and delivery or acceptance thereof.

Section 10. The Agency has determined that the proposed project is a Type II action, pursuant to 6 NYCRR Part 617.5(c)(2), ‘replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes...’ which would not result in adverse environmental impacts requiring the preparation of an Environmental Impact Statement. This determination is based upon the Agency’s review of information provided by the Applicant and such other information as the Agency has deemed necessary and appropriate to make this determination.

Section 11. The Chairperson, the Vice Chairperson, the Secretary, the Assistant Secretary, the Executive Director and the Deputy Executive Director and the General Counsel of the Agency, and any member of the Agency, are hereby designated the authorized representatives of the Agency and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits, agreements and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution and the Project Documents.

Section 12. The Applicant and the Company agree to comply, and to cause each of their respective contractors, subcontractors, agents, persons or entities to comply, with the terms and conditions of Section 875(1) and (3) of the General Municipal Law, attached hereto as Exhibit A, as such provisions may be amended from time to time.

Section 13. In connection with the Project, the Agency intends to grant the Applicant real property tax exemptions and sales tax exemptions in an amount not to exceed \$226,313.

Section 14. This Resolution shall take effect immediately.

ADOPTED: July 26, 2016

ACCEPTED: _____, 2016

WESTERN BEEF RETAIL, INC.

By: _____
Name:
Title:

WESTERN BEEF PROPERTIES, INC.

By: _____
Name:
Title: