

Resolution authorizing and approving the execution and delivery of agreements in connection with a Straight-Lease Project for A & J Supermarket Corp. and its affiliates, 1635 Lex Realty Corp. and 385 Broadway Realty Corp.

WHEREAS, the New York City Industrial Development Agency (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, A & J Supermarket Corp. (the “Applicant”) has entered into negotiations with officials of the Agency for the acquisition, renovation, furnishing and equipping of an approximately 12,590 square foot commercial facility constituting a separate commercial condominium unit (the “Facility”) to be developed within a 136,900 square foot mixed-use facility (the “Project Building”), on an approximately 17,661 square foot vacant parcel of land located at 2211-2217 Third Avenue, New York, New York, all for use by the Applicant in its operations as a full service retail supermarket, for lease to the Agency by 1635 Lex Realty Corp. and/or 385 Broadway Realty Corp., each a real estate holding company, or another affiliate of the Applicant to be formed (collectively or severally, the “Company”), and sublease by the Agency to the Company for subsequent sub-sublease in whole to the Applicant, and having a total project cost of approximately \$10,800,000 (the “Project”); and

WHEREAS, on April 13, 2017, the Agency adopted a resolution approving the taking of preliminary action with respect to providing financial assistance in the form of a straight-lease transaction; and

WHEREAS, in order to finance a portion of the costs of the Project, (i) Bank of Hope (such financial institution, or any other financial institution as may be approved by a certificate of determination of an Agency officer, the “Lender”) has agreed to enter into a loan arrangement with the Company pursuant to which the Lender will lend approximately \$2,500,000 to the Company, and the Agency and the Company will grant a mortgage on the Facility to the Lender (the “Lender Mortgage”), and (ii) the Lender or another administrator of a New York State Small Business Administration 7(a) Loan (the “SBA Lender”) has agreed to enter into a loan arrangement with the Company pursuant to which the SBA Lender will lend approximately \$5,000,000 to the Company, and the Agency and the Company will grant a second mortgage on the Facility to the SBA Lender (the “SBA Mortgage”); and

WHEREAS, for purposes of refinancing from time to time the indebtedness secured by the Lender Mortgage or the SBA Mortgage (the “Original Mortgage Indebtedness”) (whether such refinancing is in an amount equal to or greater than the outstanding principal balance of the Original Mortgage Indebtedness), the Applicant may from time to time desire to enter into new mortgage arrangements, including but not limited to consolidation with mortgages

granted subsequent to the Lender Mortgage and the SBA Mortgage; and therefore the Applicant may request the Agency to enter into the mortgage instruments required for such new mortgage arrangements (“Refinancing Mortgage(s)”); 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 abatements, sales tax exemptions and mortgage recording tax deferrals, all pursuant to the Act;

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

Section 1. 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 and the Lease Agreement hereinafter authorized.

Section 2. The execution and delivery of an Overlease Agreement from HAP Investments LLC or an affiliated real estate holding company (the “Developer”) to the Agency of the Facility, a Developer Sublease Agreement from the Agency to the Developer (the Developer to thereupon sublease the Facility to the Company), a Company Lease Agreement from the Company leasing the Facility to the Agency, an Agency Lease Agreement from the Agency subleasing the Facility to the Company (the “Lease Agreement”) (for sub-sublease to the Applicant), a Sales Tax Agent Authorization Letter from the Agency to the Company and the Applicant, the Lender Mortgage, the SBA Mortgage, the Refinancing Mortgages and the acceptance of a Guaranty Agreement from the Company, the Applicant and the Applicant’s and the Company’s owners and/or principals in favor of the Agency (the “Guaranty Agreement”) (each document referenced in this Section 2 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 3. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution and contained in the Agency 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 members thereof by the provisions of this Resolution or the Agency Documents shall be exercised or performed by the Agency or by such members, 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 the Agency Documents 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 and neither the members nor the directors of the Agency nor any officer executing any Agency 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 4. 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. The approval of such modifications shall be evidenced by a certificate of determination of an Agency officer.

Section 5. This Resolution shall take effect immediately.

ADOPTED: September 19, 2017