

**RESOLUTION INDUCING THE FINANCING OF A  
COMMERCIAL FACILITY FOR FAIRWAY BAKERY  
LLC AS A (STRAIGHT-LEASE) TRANSACTION**

**WHEREAS**, 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, civic, 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**, Fairway Bakery LLC, a food retailer and subsidiary of Fairway Market (the "Applicant"), has entered into negotiations with officials of the Agency in connection with the renovation and equipping of approximately 88,000 square feet of leased space (the "Facility") in an approximately 153,965 square foot industrial facility on an approximately 204,680 parcel of land located at 511 Barry Street, in Bronx, New York (the "Premises") owned by Baldor Specialty Foods, Inc., which Facility will be used by the Applicant as a production facility that will house a centralized bakery, produce processing and prepared foods facility (the "Project"); and

**WHEREAS**, the Applicant has submitted a Project Application (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 currently the Applicant's produce and bakery operations, including baking and food preparations function, are disaggregated and occur at various retail stores in the City; that the Project will result in a centralized bakery, produce processing and prepared foods facility within the City; that approximately 73 employees will be relocated to the Facility and 36 new jobs will be created within The City of New York (the "City") within the next three years; and 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 consolidate and maintain its operations in the City resulting in lower operating costs; 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 consolidate and maintain its operations in the City; and

**WHEREAS**, the Project should not be delayed by the requirement of determining the details of a straight-lease transaction, which cannot be immediately accomplished, and the Applicant intends to apply its own equity for a portion of the costs of the Project and to enter into loan commitments with a bank or banks which will provide funds to the Applicant in the form of loans to finance a portion of the costs of the Project; and

**WHEREAS**, in order to provide financial assistance to the Applicant for the Project, the Agency intends to grant the Applicant 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.** The Agency hereby determines that the Project and the provision by the Agency of financial assistance to the Applicant 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 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 the Company or any other occupant or user of the Facility located within the State of New York (but outside of the City); and

(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.

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

**Section 3.** The Agency hereby authorizes the Applicant to proceed with the Project as herein authorized. The Applicant is authorized to proceed with the Project on behalf of the Agency as set forth in this Resolution; provided, however, that it is acknowledged and agreed by the Applicant that (i) nominal leasehold title to or other interest of the Agency in the Facility shall be in the Agency for purposes of granting financial assistance, and (ii) the Applicant is hereby constituted the agent for the Agency solely for the purpose of effecting the Project, and the Agency shall have no personal liability for any such action taken by the Applicant for such purpose.

**Section 4.** 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 to assist in the Project.

**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.

**Section 6.** Any expenses incurred by the Agency with respect to the Project shall be paid by the Applicant. By acceptance hereof, the Applicant agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Project.

**Section 7.** This Resolution is subject to approval based on an investigative report with respect to the Applicant. The provisions of this Resolution shall continue to be effective for 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 6 hereof).

**Section 8.** The Agency, as lead agency, is issuing this determination pursuant to the State Environmental Quality Review Act ("SEQRA") (Article 8 of the Environmental Conservation Law) and implementing regulations contained in 6 N.Y.C.R.R. Part 617. 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.

The Agency hereby determines that the Project, an unlisted action, pursuant to SEQRA and the implementing regulations, will not have a significant effect on the environment and that a Draft Environmental Impact Statement will not be prepared for the Project. The reasons supporting this determination with respect to the Project are as follows:

- (a) The Project will not result in a substantial adverse change in existing air quality, traffic or noise levels.
- (b) The Project as proposed would not result in significant adverse impacts on cultural, archaeological, architectural, or aesthetic resources or the existing neighborhood.
- (c) The Project will not result in a change in existing zoning or land use.
- (d) The Project will not result in the creation of a hazard to human health.
- (e) No other significant effects upon the environment that would require the preparation of an Environmental Impact Statement are foreseeable.

**Section 9.** In connection with the Project, the Agency intends to grant the Applicant real property tax abatements, sales tax exemptions and mortgage recording tax deferrals.

**Section 10.** This Resolution shall take effect immediately.

**Adopted:** October 9, 2012

**Accepted:** \_\_\_\_\_, 2012

**FAIRWAY BAKERY LLC**

By: \_\_\_\_\_  
Name:  
Title:

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