

**RESOLUTION GRANTING APPROVAL OF AND AUTHORIZING THE GRANT OF CERTAIN FINANCIAL ASSISTANCE BY THE TOWN OF BABYLON INDUSTRIAL DEVELOPMENT AGENCY TO MAIN STREET THEATRE PARTNERS LLC IN CONNECTION WITH THE ACQUISITION, RENOVATION AND EQUIPPING OF A PERFORMING ARTS CENTER IN THE TOWN OF BABYLON**

**WHEREAS**, the Town of Babylon Industrial Development Agency (the “Agency”) is authorized under the laws of the State of New York (the “State”), and in particular under the provisions of the New York State Industrial Development Agency Act and the Agency’s enabling legislation, respectively constituting Article 18-A and Section 907-a of the General Municipal Law (Chapter 24 of the Consolidated Laws of New York), as amended (the “Act”), to assist in providing for manufacturing, warehousing, research, civic, commercial and industrial facilities in the Town of Babylon, New York (the “Town”); and

**WHEREAS**, representatives of Main Street Theatre Partners LLC, a New York limited liability company, on behalf of itself and/or the principals of Main Street Theatre Partners LLC and/or any entity or entities formed on behalf of Main Street Theatre Partners LLC or any of the foregoing (collectively, the “Company”) has filed or caused to be filed an application with the Town of Babylon Industrial Development Agency (the “Agency”) concerning a project (the “Project”) consisting the acquisition, renovation and equipping of an approximately 15,000 square foot existing building located on that certain approximately .24 acre lot, piece or parcel of land generally known as 34 West Main Street in Babylon, New York (the “Facility”), all for use by the public as a performing arts center for the purpose of producing Broadway style musicals and plays, children’s theatre, concerts, comedy, film, dance with an educational component with the purpose of serving as a cultural hub for the Town and the surrounding areas; and

**WHEREAS**, representatives of the Company have indicated that the predominant purpose of the Facility will be to make available to the residents of the Town theatrical, performing art and cultural performance venues and educational services which but for the Facility would not otherwise be reasonably accessible to the residents of the Town because of a lack of reasonably accessible theatrical performing arts and cultural performance venues for residents of the Town; and

**WHEREAS**, the Supervisor has confirmed the grant of financial assistance by the Agency for the Project; and

**WHEREAS**, in order to induce the Company to retain and provide further investment into its existing facilities in the Town and retain and grow additional jobs in the Town, it appears necessary for the Agency to assist the Company by taking leasehold title to or undertaking control of the Facility so as to afford the Company of certain relief from real property taxation, sales and use taxation (if any) and mortgage recording taxation (if any) with respect to the Facility; and

**WHEREAS**, it is contemplated that the Company will continue the lease of the Facility to the Agency pursuant to an Amended and Restated Company Lease Agreement

(the “**Company Lease**”) and the Agency will assist the Company to undertake the Project and will continue to lease or sublease the Facility to the Company pursuant to an Amended and Restated Lease and Project Agreement (the “**Lease Agreement**”), by and between the Company and the Agency pursuant to which the Company agrees, among other things, to make lease payments in such amounts as specified in the Lease Agreement; and

**WHEREAS**, pursuant to the Lease Agreement the Company has agreed to make certain payments in lieu of real property taxes, with respect to the Facility, to the Agency; and

**WHEREAS**, in connection with the Agency’s evaluation of the Project for the provision of financial assistance, the Agency has (i) assessed all material information relating to the project included in the Company’s project application (the “**Project Application**”) in order to afford a reasonable basis for the decision of the Agency to provide financial assistance to the Project; (ii) reviewed the Agency’s written cost benefit analysis for the Project which identifies the extent to which (A) the Project will create or retain permanent, private sector jobs; (B) the estimated value of any tax exemption to be provided to the Project, (C) the amount of private sector investment generated or likely to be generated by the Project; (D) reviewed the likelihood of accomplishing the proposed project in a timely fashion; and (E) considered the extent to which the Project will provide additional sources of revenue for the Town and the school district where the Facility is located; and

**WHEREAS**, in connection with the adoption of this resolution the Agency has reviewed the Project Application and the Company has confirmed in such Project Application that as of the date of the Project Application, as amended, the Company is in substantial compliance with the Act; and

**WHEREAS**, it is desired that the Agency authorize the granting of certain financial assistance to the Company in connection with the Project and the Facility including exemption from State and local sales and use taxes (if any), mortgage recording taxes (if any), and real property taxes.

**NOW, THEREFORE, BE IT DETERMINED, APPROVED AND RESOLVED** by the Agency as follows:

Section 1. With respect to the Agency’s evaluation criteria for Adaptive Reuse/Community Development Projects the Agency makes the following determinations:

(a) It has reviewed the information in the Cost Benefit Analysis with respect to the Project.

(b) The Company proposes a capital investment in the land, building, machinery and equipment and capital improvements in the Facility of approximately \$1,042,168.

(c) The wage rates for the approximately seven (7) full-time and fifty-nine (59) part-time employees at the Facility average \$70,000 – \$100,000 per year for management positions, \$50,000 – \$60,000 per year for professional positions, \$45,000 – \$60,000 per year for administrative positions, \$40,000 – \$60,000 per year for production positions and \$45,000 – \$60,000 per year for supervisor positions.

(d) The Project will not have significant impact from local labor construction in the Town.

(e) Existing real property taxes on the Facility without financial assistance provided by the Agency are \$67,028.12. With the financial assistance provided by the Agency the existing Pilot on the Facility is \$49,638.48.

(f) The Facility is a historic structure originally constructed in 1922.

(g) Project is in alignment with local planning and development efforts.

(h) Without Agency financial assistance the Facility would not be economically feasible.

Section 2. Based on the evaluation of the foregoing evaluation criteria, (a) The Agency hereby finds and determines that (i) the Project constitutes a “Project” within the meaning of the Act; (ii) predominant purpose of the Project will be to make available to the residents of the Town theatrical, performing art and cultural performance venues and educational services which but for the Facility would not otherwise be reasonably accessible to the residents of the Town because of a lack of reasonably accessible theatrical performing arts and cultural performance venues for residents of the Town; and (iii) the granting of real property tax abatements, sales and use tax abatements (if any) and mortgage recording tax abatements (if any) (collectively, the “**Financial Assistance**”) by the Agency with respect to the Facility pursuant to the Act, will preserve permanent private sector jobs, promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the Town and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act.

(b) It is desirable and in the public interest for the Agency to grant the Financial Assistance to the Company with respect to the Facility.

(c) In the event of the occurrence of a recapture event under the Lease Agreement the Agency will pursue recapture of the Financial Assistance as provided in Section 5.4 of the Lease Agreement.

Section 3. To accomplish the purposes of the Act, the Agency shall continue to hold leasehold title to the Facility pursuant to the Company Lease, assist the Company to undertake the Project, continue to sublease the Facility to the Company pursuant to the Lease Agreement.

Section 4. Pursuant to the Lease Agreement, the Company will continue to make certain payments in lieu of real property taxes (“**Pilots**”) which would be otherwise due and payable with respect to the Facility.

Section 5. The form and substance of the Company Lease in substantially the form previously executed for other “straight lease” transactions is hereby approved.

Section 6. The form and substance of the Lease Agreement in substantially the form previously executed for other “straight lease” transactions is hereby approved.

Section 7. Thomas E. Dolan, as Chief Executive Officer (“**CEO**”) or any successor CEO or any other Authorized Representative, is hereby authorized, is hereby authorized, on behalf of the Agency, to execute and deliver final forms of the Company Lease, Lease Agreement, and any other agreements or certificates consistent herewith (hereinafter collectively called the “**Agency Documents**”), all in substantially the forms previously executed by the Agency for other “straight lease” transactions acceptable to Agency Counsel, with such changes, variations, omissions and insertions in the Agency Documents as the CEO or any other Authorized Representative of the Agency shall upon advice of counsel approve. The execution thereof by the CEO or any other Authorized Representative of the Agency shall constitute conclusive evidence of such approval.

The CEO or the Chief Financial Officer (“**CFO**”) of the Agency or any other authorized representative are further hereby authorized, on behalf of the Agency, to designate any additional authorized representatives including the Chairman, the Secretary or Assistant Secretary of the Agency, to execute any Agency Documents or certificates of the Agency authorized pursuant to this Resolution and determine the terms of the Agency Documents.

The Secretary, Assistant Secretary or Counsel to the Agency is hereby authorized to attest to the CEO’s, the CFO’s or any other authorized representative’s signature on the foregoing documents and to impress or affix the seal or facsimile seal of the Agency thereto.

Section 8. The CEO of the Agency, the CFO of the Agency or any other authorized representative including the Chairman or the Secretary and any member of the Agency (as used in this resolution, the “**Authorized Representatives**”) are hereby designated the authorized representatives of the Agency and each of them is hereby authorized and directed to cause the transactions as described in the Company Lease and the Lease Agreement to be undertaken and in relation thereto, to execute and deliver any and all papers, instruments, agreements, 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, and the Agency Documents including such changes or revisions in the forms of such documents as may be requested by counsel to the Agency.

Section 9. 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 provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments, agreements and documents, 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 Agency Documents binding upon the Agency.

Section 10. All covenants, stipulations, obligations and agreements of the Agency contained in this resolution, and 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, and 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.

Section 11. No covenant, stipulation, obligation or agreement contained in this resolution, or the Agency Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency or the Town in his or their individual capacity and neither the members of the Agency nor any officer shall be liable personally on the Agency Documents or be subject to any personal liability or accountability by reason of the execution thereof.

Section 12. The law firm Katten Muchin Rosenman LLP is hereby appointed transaction counsel to the Agency for this transaction.

Section 13. Notwithstanding the foregoing, the Agency will not grant any Financial Assistance to be granted hereunder in excess of \$100,000 to the Company or the Company until the Agency has held a public hearing with respect to the grant of financial assistance in accordance with the provisions of the Act.

Section 14. This resolution shall take effect immediately.