
JAMESTOWN DEVELOPMENT COMPANY IV, LLC,
as lessor,

and

**COUNTY OF CHAUTAUQUA INDUSTRIAL
DEVELOPMENT AGENCY,**
as lessee

COMPANY LEASE AGREEMENT

Dated as of August 31, 2010

COMPANY LEASE AGREEMENT

THIS COMPANY LEASE AGREEMENT (this "Agreement") is dated as of this 31st day of August, 2010, by and between **JAMESTOWN DEVELOPMENT COMPANY IV, LLC**, a limited liability company organized and existing under the laws of the State of New York, having an address of 333 Ganson Street, Buffalo, New York 14203 ("Company"), and **COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having an office at 200 Harrison Street, Jamestown, New York 14701 ("Agency").

RECITALS:

1. 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 (the "Enabling Act"), authorizes and provides for the creation of industrial development agencies in the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to promote, develop, encourage and assist in the acquiring, renovating, construction, reconstruction, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, including industrial pollution control facilities, and to thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and improve their prosperity and standard of living.

2. In accordance with the provisions of the Enabling Act, the Agency was established pursuant to Chapter 71 of the 1972 Laws of New York, as amended, constituting Section 895-h of the New York General Municipal Law (said Chapter and the Enabling Act, each as amended from time to time, collectively, the "Act"), for the benefit of the County of Chautauqua and its inhabitants.

3. On June 15, 2010, the Agency adopted an inducement resolution, which resolution authorized the Company to proceed with the Project and authorized the execution and delivery of this Agreement by the Agency.

4. The Agency, based upon representations and warranties of the Company contained in this Agreement and the information contained in the application of the Company and other material heretofore submitted by or on behalf of the Company to the Agency, hereby finds and determines that the acquisition of a leasehold interest in the Project Facility by the Agency and the subleasing thereof to the Company are reasonably necessary to accomplish the purposes of the Act.

5. The Company has proceeded with the Project pursuant to said inducement resolution.

6. The Company will provide or cause to be provided the funds necessary to complete the Project, in accordance with the terms of the Agency Lease (as hereinafter defined).

7. The real property constituting a part of the Project Facility is currently owned by the Company and will be leased to the Agency pursuant hereto and subleased to the Company concurrently with the execution of this Agreement pursuant to the Agency Lease.

8. The parties wish to set forth their relationship which will enable the continuation, completion and operation of the Project Facility, in furtherance of the corporate and public purposes of the Agency.

NOW, THEREFORE, in consideration of the premises and the respective representations and agreements hereinafter contained, the parties agree as follows:

ARTICLE I

DEFINITIONS

The following terms shall have the following meanings in this Agreement:

“Act” shall mean, collectively, the Enabling Act, and Chapter 71 of the 1972 Laws of New York, each as amended.

“Agency” shall mean County of Chautauqua Industrial Development Agency, a public benefit corporation organized under Article 18-A of the General Municipal Law of the State with its office at 200 Harrison Street, Jamestown, New York 14701, together with its successors and assigns.

“Agency Lease” shall mean the Agency Lease Agreement, dated as of the date hereof, between the Agency and the Company and shall include any and all amendments hereafter made thereto.

“Agreement” shall mean this Company Lease Agreement between the Company and the Agency and shall include any and all amendments hereafter made hereto.

“Company” shall mean Jamestown Development Company IV, LLC, a limited liability company organized and existing under the laws of the State of New York, together with its successors and permitted assigns hereunder.

“Equipment” shall have the meaning ascribed thereto in Exhibit A annexed hereto.

“Permitted Encumbrances” shall have the meaning ascribed thereto in the Agency Lease.

“Premises” shall have the meaning ascribed thereto in the Agency Lease.

“Project” shall have the meaning ascribed thereto in Exhibit B annexed hereto.

“Project Facility” shall have the meaning ascribed thereto in Exhibit B annexed hereto, and shall include all replacements, improvements, substitutions and additions thereto, acquired, constructed and installed as provided in this Agreement.

“State” shall mean the State of New York.

Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Agency Lease.

ARTICLE II

DEMISE; TERM

2.1 Demise. The Company hereby leases to the Agency, and the Agency hereby leases from the Company, the Project Facility for the stated term for the rents, and on covenants and conditions set forth herein, subject only to the Permitted Encumbrances. It is the intention of the Company and the Agency that leasehold title to improvements hereafter made to or constructed at the Project Facility shall vest in the Agency when the same are made or constructed, subject to the terms of the Agency Lease. The Company hereby delivers possession of the Project Facility to the Agency. The Company covenants and agrees that, so long as this Agreement shall be in force and effect, the Agency shall have, hold and enjoy, during the term hereof, (i) a valid leasehold estate in the Premises, and (ii) good and marketable title in and to the Equipment, and the Company shall from time to time take all necessary action to that end.

2.2 Term. The Project Facility is leased for a term which shall commence on the date hereof and shall end on August 31, 2020 unless this Agreement shall sooner terminate pursuant to any of the terms, covenants or conditions of this Agreement or the Agency Lease or pursuant to law.

2.3 Mandatory Conveyance. At the expiration or termination of the term hereof, or as otherwise provided in Article IX of the Agency Lease, this Agreement shall automatically expire without any further action by the parties hereto, and the Agency shall, upon the request, and at the expense, of the Company confirm in writing the termination of its leasehold interest in the Project Facility under this Agreement and the Agency Lease. The Company hereby irrevocably designates the Agency as its attorney-in-fact, coupled with an interest, for the purpose of executing, delivery and recording terminations of lease together with any other documents therewith and to take such other and further actions as the Agency deems to be reasonably necessary to confirm the termination of the Agency’s interest in the Project Facility.

2.3 Consideration. The Agency is paying to the Company concurrently with the execution hereof consideration of \$1.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Company.

ARTICLE III

GOVERNING LAW; JURY TRIAL WAIVER

3.1 Governing Law. This Agreement shall be governed in all respects by the laws of the State of New York, as the same may be in effect from time to time, without regard to principles of conflicts of laws.

3.2 **WAIVER OF TRIAL BY JURY. THE COMPANY AND THE AGENCY HEREBY WAIVE THE RIGHT EACH MAY HAVE TO TRIAL BY JURY IN RESPECT OF ANY LITIGATION ARISING IN CONNECTION WITH THIS AGREEMENT.**

ARTICLE IV

MISCELLANEOUS

4.1 Notices. All notices, certificates and other demands or communications given under this Agreement shall be sent to the parties at the addresses set forth below or at such other addresses as the parties may designate by written notice and shall be sent by hand delivery, overnight courier or prepaid registered or certified mail, return receipt request, and shall be deemed given on the date received if delivered by hand or overnight courier or three (3) business days after the date mailed:

To the Agency:

County of Chautauqua Industrial
Development Agency
200 Harrison Street
Jamestown, NY 14701
Attn: Administrative Director, CEO

with a copy to :

Phillips Lytle LLP
8 East Third Street, Suite 307
P.O. Box 1279
Jamestown, NY 14702
Attn: Jonathan P. Taber, Esq.

To the Company:

Jamestown Development Company IV, LLC
333 Ganson Street
Buffalo, NY 14203
Attn: Anthony J. Pirrone

4.2 No Recourse Under This Agreement. No provision, covenant or agreement contained herein or in any other agreement entered into in connection herewith, nor any obligations herein imposed upon the Agency, or any breach thereof, shall constitute or give rise to or impose upon the Agency a debt or other pecuniary liability or a charge upon its general credit, and all covenants, stipulations, promises, agreements and obligations of the Agency

contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent of the Agency in his individual capacity.

4.3 Entire Agreement. This Agreement contains the entire agreement between the parties and all prior negotiations and agreements are merged in this Agreement. This Agreement may not be changed, modified or discharged, in whole or in part, except by a written instrument executed by the party against whom enforcement of the change, modification or discharge is sought.

4.4 Agency Representations. The Company expressly acknowledges that neither the Agency nor the Agency's agents have made or are making, and the Company, in executing and delivering this Agreement, is not relying upon any warranties, representations, promises or statements, except to the extent that the same are expressly set forth in this Agreement, and no rights, easements or licenses are or shall be acquired by the Company by implication or otherwise unless expressly set forth in the Agreement.

4.5 Company Representations. The Company represents and warrants to the Agency that: (a) the Company has the power to enter into this Agreement and to perform its obligations hereunder, (b) the entry into and the fulfillment of and compliance with the provisions of this Agreement have been duly authorized by all necessary action, and no other consent or approval is required as a condition to the validity or enforceability of this Agreement, (c) this Agreement constitutes the valid and binding obligation of the Company, enforceable in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors' rights, and (d) neither the entry into nor the fulfillment of and compliance with the provisions of this Agreement will conflict with or result in a breach of or constitute a default under (i) any provision of law, (ii) any order, writ, judgment, injunction or decree of any court or other governmental agency, (iii) the articles of organization or operating agreement of the Company, or (iv) any mortgage, indenture, document, instrument or agreement by which the Company or its properties are bound.

4.6 Assignment/Subletting. Neither the Agency nor the Company shall assign or transfer this Agreement, nor sublease the whole or any part of any of the Project Facility, nor subject this Agreement to any lien, claim, mortgage or encumbrance (other than Permitted Encumbrances), in any manner, nor sell, assign, convey or otherwise dispose of any of the Project Facility or any part thereof, during the term of this Agreement, in any manner, to any Person, except that (i) the Agency will sublease the Project Facility to the Company pursuant to the Agency Lease, and (ii) the Agency's interest herein may be assigned or transferred in connection with an assignment or transfer of the Agency's interest in the Agency Lease pursuant to the terms thereof.

4.7 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and permitted assigns.

4.8 Agency Lease. The use of the Project Facility, and all other rights, duties, liabilities and obligations of the Company and the Agency with respect thereto, including, without limitation, the acquisition, renovation, installation and equipping of the Project Facility, and the use, operating and leasing thereof, not fixed in this Agreement, shall be as set forth in the Agency Lease.


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4.9 Paragraph Headings. Paragraph headings are for convenience only and shall not affect the construction or interpretation of this Agreement.

IN WITNESS WHEREOF, the Company and the Agency have duly executed this Agreement, as of the day and year first above written.

JAMESTOWN DEVELOPMENT COMPANY IV,
LLC

By: SDHC LLC
Its Manager

By: 
Name: John M. Summers
Title: Manager

COUNTY OF CHAUTAUQUA INDUSTRIAL
DEVELOPMENT AGENCY

By: 
William J. Daly
Administrative Director, CEO

STATE OF NEW YORK)
) SS.:
) ERIE
COUNTY OF CHAUTAUQUA)

On the 31st day of August, 2010, before me, the undersigned, a notary public in and for said state, personally appeared John M. Summers, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

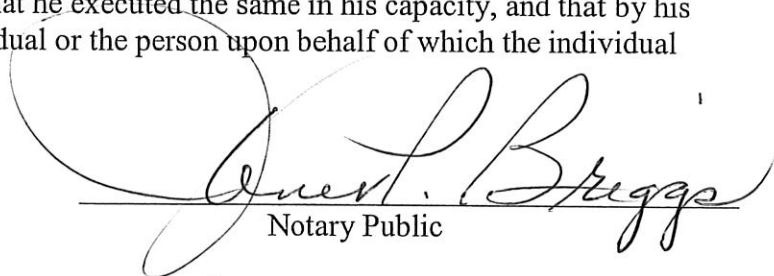


Notary Public

LAURA A. EGGERT
Notary Public, State of New York
No. 01EG6117284
Qualified in Erie County
Commission Expires October 25, 2012

STATE OF NEW YORK)
) SS.:
)
COUNTY OF CHAUTAUQUA)

On the ^{30th} 31st day of August, 2010, before me, the undersigned, a notary public in and for said state, personally appeared William J. Daly, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

JANET P. BRIGGS, #01BR6017311
NOTARY PUBLIC, State of New York
Qualified in Chautauqua County
My Commission Expires Dec. 7, 2010

Schedule A

LAND

See Attached

Exhibit B

DESCRIPTION OF THE PROJECT

“Project” shall mean (A) (1) the acquisition of an interest in an approximately 0.21 acre parcel of land located at 101-103 West Third Street, City of Jamestown, County of Chautauqua, State of New York, as more particularly described on Schedule A attached hereto (the “Land”), (2) the renovation of the existing approximately 55,099 square foot six-story building located on the Land (the “Building”), together with certain ancillary facilities, including parking, driveways, and related improvements to the Land (the “Ancillary Facilities”)(the Building, the Ancillary Facilities and any other improvements to the Land, collectively, the “Facility”), and (3) the acquisition and installation therein and thereon of certain Equipment (as defined below)(the Land, the Facility and the Equipment, collectively, the “Project Facility”), all of the foregoing for use by the Company as a mixed-use commercial and market rate rental housing facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes, mortgage recording taxes and real property taxes (but not including special assessments and ad valorem levies) (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other entity as may be designated by the Company and agreed upon by the Agency.

Exhibit A
EQUIPMENT

The Equipment described in Exhibit A to the Agency Lease.