

**RESOLUTION 5-2023  
OF THE  
CAPITALIZE ALBANY CORPORATION**

**WHEREAS**, the mission of the Capitalize Albany Corporation (“CAC”) is to facilitate strategic economic development and stimulate transformative investment throughout the City of Albany, making New York’s Capital a vibrant place to thrive; and

**WHEREAS**, in support of its mission, CAC participates in a multitude of initiatives designed to contribute to the economic growth of the City including but not limited to programs funded by other entities which supports the CAC mission; and

**WHEREAS**, the area known as Clinton Square was awarded designation by the City of Albany’s New York State Downtown Revitalization Initiative (“DRI”) as an essential hub capable of connecting and leveraging growth within downtown, the Warehouse District, the Arbor Hill and Sheridan Hollow neighborhoods, and the Hudson Riverfront; and

**WHEREAS**, CAC’s property at 11 Clinton Avenue (“Federal Park”) has been identified as the heart of the Clinton Square zone and an important component of the Albany Skyway as both an opportunity to physically connect and drive users to Albany’s many assets as well as create a venue; and

**WHEREAS**, CAC, after successful application through the 2019 DRI process, was awarded \$1,160,240 (“DRI Funding”) for the redesign, engineering and renovation of Federal Park to allow for the creation of diverse pop up retail, installments by local artists, signature events and enhanced pedestrian connections, and to anchor Clinton Square’s role as both an engaging destination and an introduction to unique and vibrant local arts and commercial venues (“Clinton Market Collective” or “CMC Project”); and

**WHEREAS**, in addition to the DRI Funding, CAC has also successfully obtained third party funding in the amount of \$3,560,240 for the CMC Project which is comprised of (i) \$1,160,240 of DRI Funding; (ii) \$1,100,000 from the City of Albany pursuant to an ARPA Grant; (iii) \$750,000 from NYS ESD pursuant to an NYSESD Capital Grant; (iv) \$200,000 from National Grid pursuant to a Urban Center/Commercial District Revitalization Grant; and (v) \$300,000 of CAC’s funds (pursuant to Resolution 16-2022); and

**WHEREAS**, in accordance with CAC’s procurement policy and subsequent to issuing open/publicly advertised RFPs, and pursuant to Board Resolutions, CAC entered into contracts to implement the design and construction of the CMC Project: (i) Fuss & O’Neil (f/k/a PLACE Alliance, the “A/E Consultant”) in March 2020 to provide design, planning and engineering consulting services for the CMC Project at an estimated cost of \$360,000 (Resolution #8-2020); (ii) TW&A Construction Management (a NYS certified WBE) (the “CM Consultant”) in April 2021 to provide construction management/owner representative services for the CMC Project at an estimated cost of \$135,000 (Resolution #9-2021); and (iii) J.H. Maloy Construction (“General Contractor”) to construct the CMC Project in the base amount of \$2,798,000 plus the Board approved contingency funding



to accommodate necessary construction contract change orders (Resolution #16-2022); and

**WHEREAS**, during the construction of the CMC Project: (i) due to the unexpected presence/discovery of significantly more underground utilities located underneath the Federal Park than anticipated, both the A/E Consultant and CM Consultant have been required to provide significantly more professional services than what would have been reasonably expected when their respective contracts were entered into for the CMC Project; and (ii) the General Contractor has requested certain change orders related to necessary Project design changes (e.g. retaining wall, drainage, fencing) in order to complete the CMC Project; and

**WHEREAS**, following extensive review by staff, and staff review with the Finance Committee, in order to address the unanticipated services professional services and to fund change orders to complete the CMC Project, it is recommended to: (i) amend the A/E Consultant contract from an amount of \$360,000 to \$390,000; (ii) amend the CM Consultant contract from an amount of \$135,000 to \$230,000; and (iii) increase the amount of CAC funding from \$300,000 to \$610,000 to cover both the referenced professional contract amendments and necessary change orders.

**NOW THEREFORE BE IT RESOLVED**, the Board authorizes (i) staff with counsel review to enter into the two reference professional service contracts, and (ii) up to a maximum of \$610,000 of CAC funding to be allocated for the CMC Project; and (iii) staff to complete the CMC Project (including any change orders to the construction contract) up to the amount of available third party funding and authorized CAC funding.

Signed:                                           
 John Vero, Esq., Secretary

Date of Authorization: June 27, 2023  
 Prepared by: Thomas M. Owens

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

| Board Member       | Voting | Board Member      | Voting | Board Member | Voting |
|--------------------|--------|-------------------|--------|--------------|--------|
| Kaweeda Adams      | Absent | Heather Mulligan  | AYE    | John Vero    | Absent |
| Michael Castellana | AYE    | David Parente     | AYE    |              |        |
| Sonya del Peral    | Absent | Matthew Peter     | AYE    |              |        |
| Michael Fancher    | AYE    | Havidan Rodriguez | AYE    |              |        |
| Anthony Gaddy      | AYE    | Anders Tomson     | Absent |              |        |
| John Harris        | AYE    | Karen Torrejon    | Absent | Aye: 8 No: 0 |        |
|                    |        |                   |        | Recused: 0   |        |