

CITY OF WILLIAMSPORT, PA RESOLUTION

RESOLUTION # 9054

DATE 7-23-20

TITLE

RESOLUTION OF THE CITY OF WILLIAMSPORT ("CITY") AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR FUNDING TO THE COMMONWEALTH OF PENNSYLVANIA FOR THE REDEVELOPMENT ASSISTANCE CAPITAL PROGRAM ("RACP") GRANT IN THE AMOUNT OF TWO MILLION DOLLARS (\$2,000,000) FOR THE PAJAMA FACTORY (WILLIAMSPORT) IMPROVEMENT PROJECT

WHEREAS, the Office of the Budget notified the Pajama Factory that the Governor of the Commonwealth of Pennsylvania has authorized the release of Two Million Dollars (\$2,000,000) in RACP funds (the "Grant") for the Pajama Factory (Williamsport) Project (the "Project") located in Williamsport City, Lycoming County, Pennsylvania, and has requested the Pajama Factory prepare and submit a formal and complete RACP application to the Office of the Budget; and

WHEREAS, the Project is a revitalization of a historic factory building, and, therefore, the City supports the Project; and

WHEREAS, the City and the Pajama Factory have agreed to enter into a Cooperation Agreement attached hereto and incorporated herein as Exhibit "A".

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WILLIAMSPORT as follows:

- (1) The City supports the RACP Grant to the Pajama Factory in the amount of \$2,000,000 to be used for improvements to the historic factory complex as described in the Cooperation Agreement,
- (2) The City agrees to serve as the public applicant for the Grant,
- (3) The City does hereby designate Joseph Pawlak, as the official to execute all documents and agreements between the City and the Pennsylvania Office of the Budget to facilitate and assist in obtaining the requested grant, subject to the Pajama Factory executing the Cooperation Agreement incorporated herein as Exhibit "A".

APPROVED AND ADOPTED this 23rd day of July, 2020.

ATTEST:

CITY OF WILLIAMSPORT

By: James M. Frank
City Clerk

By: _____
Mayor
By: Margaret Chasding
City Controller

Approved

James M. Frank
City Clerk

Dandy Allsen
President

City of Williamsport
Cooperation Agreement with the Sub-Grantee and Grant Administrator

\$2,000,000
Redevelopment Assistance Capital Program (RACP)

City of Williamsport
“Applicant & Grantee”

PJ Holding LLC & Pajama Factory LLC
“Sub-Grantees & Administrator”

This AGREEMENT made this _____ day of _____, 2020, by and between the **City of Williamsport and PJ Holding LLC & Pajama Factory LLC.**

WHEREAS, PJ Holding LLC & Pajama Factory LLC are the recipient of Redevelopment Assistance Capital Program ("RACP") grant funding in the aggregate amount of Two Million Dollars (\$2,000,000) ("Grant") from the Commonwealth of Pennsylvania (the "Commonwealth") to fund their improvement project, as defined below, located in the City of Williamsport, Lycoming County, Pennsylvania (the "Project") to be owned and used by PJ Holding LLC & Pajama Factory LLC; and

WHEREAS, PJ Holding LLC & Pajama Factory LLC have received notice from the Commonwealth authorizing the preparation and submittal of a complete RACP application ("Application"), for said RACP funding for the Project; and

WHEREAS, the Application requires that a Cooperation Agreement be entered into between the City of Williamsport and PJ Holding LLC & Pajama Factory LLC, which authorizes the Project and obligates the City of Williamsport to reimburse the Commonwealth for any expenditures found by the Commonwealth to be ineligible; and

WHEREAS, PJ Holding LLC & Pajama Factory LLC have agreed to indemnify the City of Williamsport and hold the City of Williamsport harmless from any obligation of the City of Williamsport to the Commonwealth for any obligation to reimburse the Commonwealth for the state's share of any Project expenditures found by the Commonwealth to be ineligible; and

WHEREAS, as part of the RACP funding process, the City of Williamsport will enter into a Grant Agreement with the Commonwealth ("Grant Agreement") in which it will be identified as a Grantee of the Commonwealth in the administration of the aforesaid Grant Agreement and the funding associated therewith; and

WHEREAS, as part of the RACP funding process, PJ Holding LLC & Pajama Factory LLC will be identified as a Sub- Grantees of the Commonwealth and PJ Holding LLC & Pajama Factory LLC will be identified as the administrator of the aforesaid Grant Agreement and the funding associated therewith.

professional or administrative services provided under this Agreement.

PJ Holding LLC & Pajama Factory LLC shall retain all records for a period of not less than three years from project close-out.

8. **Cooperation and Abandonment.** PJ Holding LLC & Pajama Factory LLC and the City of Williamsport agree to cooperate fully with each other and their staff to carry out the program. If PJ Holding LLC & Pajama Factory LLC abandons the program or indefinitely postpones it, the City of Williamsport may terminate this Agreement by sending a ten (10) day written notice of its intention to terminate.

Thereafter, the City of Williamsport shall have no further duties under this Agreement. Termination by the City of Williamsport under this paragraph shall not relieve PJ Holding LLC & Pajama Factory LLC from its duty to pay for the services rendered or to reimburse costs, if any, in accordance with the fee provisions of this Agreement.

9. **Liabilities.** Neither the City of Williamsport nor PJ Holding LLC & Pajama Factory LLC assumes any liabilities to each other. As to liability to each other or death to persons, or damages to property, PJ Holding LLC & Pajama Factory LLC and the City of Williamsport do not waive any defenses as a result of entering into this contract. This provision shall not be construed to limit the Commonwealth's rights, claims or defenses which arise as a matter of law pursuant to any provisions of this contract. This provision shall not be construed to limit the sovereign immunity of PJ Holding LLC & Pajama factory LLC.

10. **Termination for Breach.** If any party substantially fails to perform a material promise herein, which failure is not cured within ten (10) days after receiving written notice of the failure, the party to whom the duty is owed party may declare this Agreement to be terminated and such non-breaching party(ies) shall be availed all remedies provided by law.

11. **Miscellaneous**

- This Agreement supersedes all other agreements or understandings between the parties with regard to the program described herein.
- Any amendments, deletions, additions, substitutions, or cancellations of this Agreement shall be in writing and signed by both parties.
- In carrying out this Agreement, both parties agree to comply with all federal, state, and local laws, regulations, and executive orders.
- This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.
- The parties agree that the Court of Common Pleas of Lycoming County, Pennsylvania shall have jurisdiction over any, and all disputes arising under this Agreement.
- This agreement shall be binding upon, and inure to the benefit of the parties and their respective successors and/or assigns.

- Neither party may assign this Agreement in whole or in part without the prior written consent of the other party.
- In the event that any audit of the program is required by any agency of government, the parties hereto agree to allow duly authorized examiners full access to and the right to examine any pertinent books, papers, documents, and records within their custody or control.
- The invalidity of any one or more of the phrases, clauses, sentences, or paragraphs contained in this Agreement shall not affect the remaining portions of this Agreement.

12. **Funding Requirements.** The Parties acknowledge and agree that receipt of funding through the RACP is subject to various requirements and conditions imposed by the Commonwealth. Entry into this Agreement does not constitute any type of guarantee on the part of the City of Williamsport that any conditions can or will be complied with or that the City of Williamsport will undertake any additional responsibilities or obligations in regard to obtaining such funding. Furthermore, PJ Holding LLC & Pajama Factory LLC in turn, to the City of Williamsport, any funds disbursed to PJ Holding LLC & Pajama Factory LLC for costs found to be ineligible for RACP funding, or to return any RACP funds not expended and to hold the City of Williamsport harmless from and against any and all claims that the City of Williamsport acted or failed to act in any manner that resulted in a negative effect on the ability of PJ Holding LLC & Pajama Factory LLC to obtain funding for the Project through the RACP.

13. **Term.** This agreement shall remain in effect for the duration of the RACP grant, including final audit and close-out.

ATTEST:

PJ Holding LLC/Pajama Factory LLC

BY *James M. Franke*

BY _____

ATTEST:

City of Williamsport

BY _____

BY _____

Mayor

BY *Margaret A. Choudhry*
City Controller