

MEMORANDUM OF UNDERSTANDING

Re: The Fresh Direct Facility at the Harlem River Yards

This memorandum of understanding ("MOU"), dated as of February 14, 2012, sets forth certain understandings and agreements among Fresh Direct, LLC and U.F.T. Trucking, Inc. (together referred to herein as the "Company"), the Bronx Overall Economic Development Corporation ("BOEDC") and Ruben Diaz Jr., in his capacity as the Bronx Borough President (the "BP") with respect to the Company's proposal to relocate its business operations and functions to a new facility (as described herein, the "Facility") to be constructed at the Harlem River Yards in the Bronx, New York (such relocation, construction of the Facility and Company operations conducted at the Facility referred to herein as the "Project").

The Facility, which, if approved by the Company, is expected to be ready for operation in 2015, is planned to consist of an approximately 500,547 square foot industrial, manufacturing and distribution facility with attendant machinery, equipment, furniture, fixtures and other personal property for use in the Company's operations, and will include a satellite truck facility with an approximately 10,000 square foot maintenance building, a multi-story parking structure and another separate satellite parking facility. Currently employing approximately 1,963 full-time equivalent employees, the Company expects to employ 2,307 full-time equivalent employees at the Facility by June 30, 2015, an additional 190 full-time equivalent employees by June 30, 2016, an additional 230 full-time equivalent employees by June 30, 2017, an additional 50 full-time equivalent employees by June 30, 2018, an additional 50 full-time equivalent employees by June 30, 2019, and an additional 100 full-time equivalent employees by June 30, 2020, bringing its total full-time equivalent employees to 2,927.

To support the Project, it is expected that the State of New York (the "State"), acting through the Empire State Development Corporation, New York Power Authority and New York State Energy Research and Development Authority, and the New York City Industrial Development Authority (the "IDA"), acting on behalf of the City of New York (the "City"), will provide the Company various tax credits, capital and energy grants, incentives and vouchers and loans totaling approximately \$123.3 million (referred to respectively as the "State Support" or the "IDA Support").

1) Bronx Support for the Project

To support the Project, (i) the BP has agreed to direct the allocation of a \$1 million capital grant from City capital funds under his control to be administered by the New York State Department of Transportation for the purposes of environmental remediation and land clearance at the Harlem River Yards (the "BP Grant"), subject only to the approval of the New York City Office of

Management and Budget, continued approval of the Project by the State, IDA and BOEDC, commencement of the construction of the Facility and the provisions of Section 8 herein; and (ii) BOEDC has agreed to provide the Company (a) a \$3 million loan for the Project pursuant to the terms of the attendant loan agreement (the "BOEDC Loan Agreement") and (b) a \$500,000 capital grant pursuant to the terms of the attendant grant agreement (the "BOEDC Grant Agreement") (such loan and grant, referred to as the "BOEDC Support").

In consideration for the actions to be taken by the parties described below, the parties hereto hereby acknowledge and agree to the following:

2) Hiring and Job Training

- A) **Hiring Protocol:** The Company agrees work with BOEDC to develop and execute a hiring protocol that seeks out qualified unemployed persons in the Bronx to work at the Facility. The elements of the hiring protocol are described below.
- B) **Joint Efforts:** In consultation with the Company, BOEDC will design a system to seek out, identify, assist and refer to the Company job candidates that are qualified for employment at the Facility. Prior to the commencement of hiring activities at the Facility, Company officials will assist BOEDC in becoming knowledgeable in all aspects of the Company's employment requirements for the various job titles. Once hiring for the Facility has begun, appropriate Company officials will meet with officials of BOEDC and the BP not less than once annually to assist BOEDC in evaluating and improving its recruitment system and provide numerical data on (i) the hiring and/or firing of employees referred by BOEDC, (ii) Bronx residents working for the Company and (iii) the number of Company employees.
- C) **Job Fairs:** It is the intent of BOEDC to sponsor annual job fairs for City residents as the Company ramps up its hiring which will require advance notice of the Company's hiring plans. The Company will assist and advise BOEDC in this effort to facilitate successful job fairs for the benefit of Bronx residents and the Company.
- D) **Bronx Hiring Target:** For non-union job titles, the Company will make its best efforts to insure that a minimum of thirty percent (30%) of all new hires (on a full-time equivalent basis) reside in the Bronx.
- E) **Construction Jobs:** The Company will assist BOEDC in identifying job openings related to the construction of the Facility by providing it copies of all published public notices for bid requests related to the Project.
- F) **Job Training:** In consultation with the Company, BOEDC will seek out or create job training programs that would be useful in qualifying Bronx residents for employment at the Company. Prior to the commencement of hiring activities at the Facility, Company officials will assist BOEDC in becoming knowledgeable in the types of training programs

used by the Company or which the Company thinks would be useful for employment in the various job titles. Once hiring for the Facility has begun, appropriate Company officials will meet with officials at BOEDC not less than once annually to assist BOEDC in evaluating and improving the training programs accessed or created by BOEDC.

3) Vendor Referrals

It is the policy of the City and the BP to foster the successful growth and establishment of minority, women-owned and disabled person-owned businesses ("MWDBEs") and locally-owned Bronx-based businesses ("LBBEs") from the economic activity of City businesses particularly when they receive government subsidies.

A) BOEDC has extensive experience in recruiting LBBEs and MWDBEs for Bronx developments. It is BOEDC's intention to seek out, inform and assist qualified businesses in obtaining contracts in the development and operation of the Project. The Company will assist BOEDC in becoming knowledgeable of the types and qualifications of vendors that will be needed for the construction and on-going operation of the Project. In cooperation with the Company, BOEDC will sponsor vendor contracting fairs for MWDBEs and LBBEs interested in working with the Company once construction is completed. Once the contracting for vendors has begun, appropriate Company officials will meet with officials of BOEDC and the BP's office not less than once annually to assist BOEDC in evaluating and improving its vendor outreach program. After the Company has started hiring vendors, the Company shall provide the BOEDC and the BP with a copy of any report related to the hiring of MWDBEs that the Company is required to file with the State.

4) Service Areas

Some Bronx residents have voiced concerns with respect to the limited number of areas the Company services in the Bronx. To address these concerns, the Company shall meet with the BP no later than June 30, 2012, to discuss the expansion of service into additional areas of the Bronx. At such meeting, the parties should be prepared to discuss expansion plans for specific areas of the borough including the South Bronx. The Company agrees to update the BP on expansion plans as they develop during the term of this MOU.

5) Food Stamps

Bronx residents have voiced concerns that the Company does not accept EBT/Food Stamp benefits for its food deliveries. The parties hereto acknowledge that the Company has been attempting for years to get approval from the State to use of EBT/Food Stamps to pay for its food deliveries. The BP expects and encourages the Company to continue these efforts and will assist the Company in this matter.

6) Electric Trucks

The Company hereby acknowledges that it intends to — purchase 10 electric delivery trucks from Smith Electric for use at the Facility and further acknowledges that it has a 5-year goal to have a 100% green transportation fleet.

With respect to these matters, the Company agrees that it will meet with the BP and his staff no than later December 31, 2012 to discuss the Company's plans to phase in the use of "green" delivery trucks and how the BP may assist the Company in those matters. Once construction of the Facility is complete, the Company shall report to the BP no less than once annually on the status of the Company's use of "green" trucks.

7) Term

The term of this MOU shall commence as of the date cited in the first paragraph of this MOU and continue on and through the term of the Company's IDA lease agreement related to the IDA Support. Nevertheless, the parties acknowledge and agree that this Agreement will immediately and automatically terminate should the Company decide for any reason not to pursue the Project and in such event no party hereto shall have any obligation to any of the others in such event.

8) Acknowledgement

The Company acknowledges that a failure on its part to substantially perform its obligations under this MOU may trigger a default under the terms of each of the BOEDC Loan agreement, BOEDC Grant Agreement and BP Grant. Prior to triggering such a default, the BOEDC or the BP, as the case may be, will provide the Company reasonable advance written notice of the condition triggering the potential default and a reasonable period of time in which to cure such condition.

9) Exclusive Benefit

This MOU is for the sole and exclusive benefit of the parties hereto and no other person or entity is intended to be a beneficiary hereof nor may such person or entity claim to be entitled to any right or benefit of any nature whatsoever in connection herewith.

10) Liability

No officer, agent or employee of any of the parties hereto shall be charged with any liability in connection with the MOU.

Please execute this MOU below to indicate your acknowledgment of, and agreement to, the foregoing.

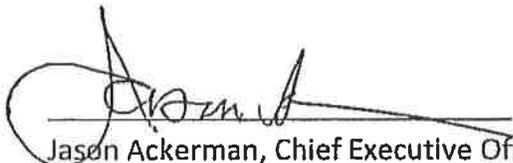
As of February 14, 2012



Ruben Diaz Jr.
Bronx Borough President



Marlene Cintron, President
Bronx Overall Economic Development Corporation



Jason Ackerman, Chief Executive Officer
Fresh Direct, LLC and U.F.T. Trucking Inc.