

Date: July 19, 2023

At a meeting of the Town of Brookhaven Industrial Development Agency (the “Agency”), held on the 19th day of July, 2023, at 1 Independence Hill, 2nd Floor, Farmingville, New York 11738, the following members of the Agency were:

Present: Frederick C. Braun III, Chairman
Martin Callahan, Treasurer
Ann-Marie Scheidt, Secretary
Gary Pollakusky, Asst. Secretary (via Zoom)
Frank C. Trotta, Asst. Treasurer
Mitchell H. Pally, Member

Recused:

Absent: Felix J. Grucci, Jr., Vice Chair

Also Present: Lisa M. G. Mulligan, Chief Executive Officer
Lori LaPonte, Chief Financial Officer
Amy Illardo, Director of Marketing and Project Development
Jocelyn Linse, Executive Assistant
Terri Alkon, Administrative Assistant
Annette Eaderesto, Esq., Counsel to the Agency
William F. Weir, Esq., Transaction Counsel
Howard Gross, Esq., Transaction Counsel (via Zoom)

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to the amendment and modification of certain payment-in-lieu-of-tax benefits for a certain industrial development facility more particularly described below (AVR-SP Brookhaven JV LLC 2022 Facility).

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

Voting Aye

Voting Nay

Braun
Callahan
Scheidt
Pollakusky
Trotta
Pally

RESOLUTION OF THE TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY APPROVING AMENDMENT AND MODIFICATION OF THE PILOT BENEFITS OF A CERTAIN INDUSTRIAL DEVELOPMENT FACILITY FOR THE AVR-SP BROOKHAVEN JV LLC 2022 FACILITY, AUTHORIZING THE EXECUTION AND DELIVERY OF AMENDMENTS TO THE LEASE AGREEMENT, AND THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS IN CONNECTION THEREWITH AND APPROVING THE FORM, SUBSTANCE AND EXECUTION OF RELATED DOCUMENTS.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 358 of the Laws of 1970 of the State of New York, as amended from time to time (collectively, the “**Act**”), the Town of Brookhaven Industrial Development Agency (the “**Agency**”) was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Agency has previously assisted AVR-SP Brookhaven JV LLC, a Delaware limited liability company (the “**Company**”), in connection with (a) the acquisition of an approximately 47.26-acre parcel of land located at Eastern terminus of Precision Drive, Shirley, New York 11967 (SCTM# 0200-554.00-03.00-004.410, 004.450 & 004.460) (the “**Land**”), (b) the clearance of 27.88 acres of the Land and the construction thereupon of two (2) buildings, totaling approximately 401,080 square feet, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the “**Improvements**”), and the acquisition and installation therein of certain equipment and personal property (the “**Facility Equipment**”; and together with the Land and the Improvements, the “**Original Facility**”), which Facility will be leased by the Company to the Agency and will be subleased by the Agency back to the Company. The Facility is to be used by the Company as two industrial buildings to be leased to tenants for warehouse and distribution operations or other permitted uses within the L1 Industrial zone (the “**Project**”); and

WHEREAS, the Agency by resolution duly adopted on December 8, 2021 (the “**Authorizing Resolution**”), authorized the acquisition, construction and equipping of such facility and the execution and delivery of the Agency Documents (as defined therein); and

WHEREAS, the Company leased the Facility to the Agency pursuant to a Company Lease Agreement, dated as of June 1, 2022 (the “**Original Company Lease**”), between the Company and the Agency; and

WHEREAS, the Agency leased the Facility to the Company pursuant to a Lease and Project Agreement, dated as of June 1, 2022 (the “**Original Lease Agreement**”), between the Agency and the Company; and

WHEREAS, the Facility consists of two separate buildings, one approximately 150,000 square foot building located on an approximately 13.92 acre portion of the Land (“**Parcel 1**”), and an approximately 250,000 square foot building located on an approximately 22.03 acre portion of the Land (“**Parcel 2**”; and together with Parcel 1, the “**Facility**”); and

WHEREAS, the Company has now requested the Agency to amend and modify the payment-in-lieu-of-tax payments, as described in the Original Lease Agreement (the “**Original PILOT Payments**”), in order to split the Original PILOT Payments between Parcel 1 and Parcel 2 (the “**PILOT Amendment**”), and provide exemptions from sales and use taxes in connection with the development of Parcel 1 and Parcel 2; and

WHEREAS, the Company has also requested the Agency to split the full-time equivalent employee requirements as described in the Original Lease Agreement (the “**FTE Requirements**”), between Parcel 1 and Parcel 2 (the “**FTE Amendment**”); and

WHEREAS, to provide for the PILOT Amendment and the FTE Amendment, the Agency and the Company will amend the Original Lease Agreement pursuant to an Amendment and Modification Agreement, dated as of August 1, 2023, or such other date as may be determined by the Chairman or Chief Executive Officer of the Agency and counsel to the Agency (the “**Amendment and Modification Agreement**”; and together with the Original Lease Agreement, the “**Lease Agreement**”); and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

NOW, THEREFORE, BE IT RESOLVED by the Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. The Agency hereby finds and determines:

(a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(b) The Facility constitutes a “project”, as such term is defined in the Act; and

(c) The Facility preserves the public purposes of the Act by preserving or increasing the number of permanent private sector jobs in the Town of Brookhaven. The Company has represented to the Agency that, upon the effectiveness of the FTE Amendment, it intends to provide eight and a half (8.5) full time employees at Parcel and fourteen (14) full time employees at Parcel 2 by December 31, 2025, and twenty-six (26) full time employees at Parcel 1 and forty-four (44) full time employees at Parcel 2 by December 31, 2028; and

(d) The continued leasing of the Facility to the Company, will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Town of Brookhaven, and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(e) The continued leasing of the Facility is reasonably necessary to induce the Company to maintain and expand its business operations in the State of New York; and

(f) The Amendment and Modification Agreement will be an effective instrument whereby the Agency and the Company agree to amend the Original Company Lease and the Original Lease Agreement to reflect the PILOT Amendment and the FTE Amendment;

Section 2. In consequence of the foregoing, the Agency hereby (i) approves the PILOT Amendment, (ii) approves the FTE Amendment, (iii) approves the form and substance of the Amendment and Modification Agreement, and (iv) authorizes the execution and delivery of the Amendment and Modification Agreement and such other related documents as may be necessary or appropriate to effect the PILOT Amendment and the FTE Amendment.

Section 3. The form and substance of the Amendment and Modification Agreement to which the Agency is a party (each in substantially the forms presented to or approved by the Agency and which, prior to the execution and delivery thereof, may be redated) is hereby approved.

Section 4. Subject to the provisions of this resolution,

(a) The Chairman, the Chief Executive Officer, or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Amendment and Modification Agreement in substantially the form thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, the Chief Executive Officer or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman, the Chief Executive Officer, and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the "**Agency Documents**"). The execution thereof by the Chairman, the Chief Executive Officer, or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chair, Vice Chair, Executive Director, Deputy Executive Director, or any member of the Agency is further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency.

Section 5. Subject to the provisions of this resolution, the Agency hereby authorizes and approves the following amendments to the Lease Agreement of (a) the PILOT Amendment (as set forth in the PILOT Schedules attached as Exhibit A-1 and Exhibit A-2 hereof), and (b) the FTE Amendment.

Section 6. Counsel to the Agency and Nixon Peabody LLP, Transaction Counsel to the Agency are hereby authorized and directed to prepare, for submission to the Agency, the Agency Documents described in the foregoing resolution.

Section 7. The Chairman, the Chief Executive Officer, and any member of the Agency are each hereby authorized and directed (i) to distribute copies of this resolution to the Company, and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 8. This resolution shall take effect immediately.

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

I, the undersigned Chief Executive Officer of the Town of Brookhaven Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Town of Brookhaven Industrial Development Agency (the “Agency”), including the resolutions contained therein, held on the 19th day of July, 2023, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Agency Documents contained in this transcript of proceedings are each in substantially the form presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with the New York Open Meetings Law, constituting Chapter 511 of the Laws of 1976 of the State of New York, that all members of said Agency had due notice of said meeting and that the meeting was all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 19th day of July, 2023.

By: 
Chief Executive Officer

Exhibit A-1

Proposed Parcel 1 PILOT Schedule

Schedule of payments-in-lieu-of-taxes: Town of Brookhaven, (including any existing incorporated village and any village which may be incorporated after the date hereof, within which the Facility is wholly or partially located), Longwood School District, Suffolk County and Appropriate Special Districts

Property Address: Eastern terminus of Precision Drive, Shirley, New York

Tax Map Nos. 0200-554.00-03.00-004.410, 004.450 & 004.460

School District: Longwood School District

<u>Year</u>	<u>PILOT Payment Parcel 1</u>
1	\$ 35,119
2	\$ 35,822
3	\$ 36,538
4	\$ 37,269
5	\$ 38,014
6	\$ 40,937
7	\$ 83,511
8	\$ 127,772
9	\$ 173,771
10	\$ 221,557
11	\$ 271,186
12	\$ 322,712
13	\$ 376,190
14	\$ 431,678
15	\$ 489,234

Exhibit A-2

Proposed Parcel 2 PILOT Schedule

Schedule of payments-in-lieu-of-taxes: Town of Brookhaven, (including any existing incorporated village and any village which may be incorporated after the date hereof, within which the Facility is wholly or partially located), Longwood School District, Suffolk County and Appropriate Special Districts

Property Address: Eastern terminus of Precision Drive, Shirley, New York

Tax Map Nos. 0200-554.00-03.00-004.410, 004.450 & 004.460

School District: Longwood School District

<u>Year</u>	<u>PILOT Payment Parcel 2</u>
1	\$ 58,532
2	\$ 59,703
3	\$ 60,897
4	\$ 62,114
5	\$ 63,357
6	\$ 68,228
7	\$ 139,186
8	\$ 212,954
9	\$ 289,618
10	\$ 369,262
11	\$ 451,977
12	\$ 537,853
13	\$ 626,983
14	\$ 719,463
15	\$ 815,391

Date: December 8, 2021

At a meeting of the Town of Brookhaven Industrial Development Agency (the “Agency”), held electronically via webinar on the 8th day of December, 2021, the following members of the Agency were:

Present: Frederick C. Braun III, Chairman
Felix J. Grucci, Jr., Vice Chair
Martin Callahan, Treasurer
Ann-Marie Scheidt, Secretary
Gary Pollakusky, Asst. Secretary
Frank C. Trotta, Asst. Treasurer

Recused:

Excused: Lenore Paprocky, Member

Also Present: Lisa M. G. Mulligan, Chief Executive Officer
Lori LaPonte, Chief Financial Officer
James M. Tullo, Deputy Director
Jocelyn Linse, Executive Assistant
Terri Alkon, Administrative Assistant
Amy Illardo, Administrative Assistant
Annette Eaderesto, Esq., Counsel to the Agency
William F. Weir, Esq., Transaction Counsel
Howard R. Gross, Esq., Transaction Counsel

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to acquisition of a leasehold interest in and title to a certain industrial development facility more particularly described below (AVR-SP Brookhaven JV LLC 2021 Facility).

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

Voting Aye

Braun
Grucci
Callahan
Scheidt
Pollakusky
Trotta

Voting Nay

RESOLUTION OF THE TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE ACQUISITION CONSTRUCTION, RENOVATION, AND EQUIPPING OF A CERTAIN INDUSTRIAL DEVELOPMENT FACILITY, AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE FACILITY AND APPROVING THE FORM, SUBSTANCE AND EXECUTION OF RELATED DOCUMENTS

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 358 of the Laws of 1970 of the State of New York, as amended from time to time (collectively, the “**Act**”), the Town of Brookhaven Industrial Development Agency (the “**Agency**”), was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, AVR-SP Brookhaven JV LLC, a limited liability company organized and existing under the laws of the State of Delaware and authorized to transact business in the State of New York, on behalf of itself and/or the principals and/or equity investors of AVR-SP Brookhaven JV LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Company**”), has applied to the Agency for assistance in connection with: (a) the acquisition of an approximately 47.26-acre parcel of land located at Eastern terminus of Precision Drive, Shirley, New York 11967 (SCTM# 0200-554.00-03.00-004.410, 004.450 & 004.460) (the “**Land**”), (b) the clearance of 27.88 acres of the Land and the construction thereupon of two (2) buildings, totaling approximately 401,080 square feet, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the “**Improvements**”), and the acquisition and installation therein of certain equipment and personal property (the “**Facility Equipment**”; and together with the Land and the Improvements, the “**Company Facility**”), which Company Facility will be leased by the Company to the Agency and will be subleased by the Agency back to the Company. The Facility is to be used by the Company as two industrial buildings to be leased to tenants for warehouse and distribution operations or other permitted uses within the L1 Industrial zone (the “**Project**”); and

WHEREAS, the Agency will acquire a leasehold interest in the Land and the Improvements pursuant to a certain Company Lease Agreement, dated as of December 1, 2021 or such other date as the Chairman or Chief Executive Officer of the Agency and counsel to the Agency shall agree (the “**Company Lease**”), by and between the Company and the Agency; and

WHEREAS, the Agency will acquire title to the Facility Equipment pursuant to a certain Bill of Sale, dated the Closing Date (as defined in the hereinafter defined Lease Agreement) (the “**Bill of Sale**”), from the Company to the Agency; and

WHEREAS, the Agency will sublease and lease the Company Facility to the Company pursuant to a certain Lease and Project Agreement, dated as of December 1, 2021, or such other date as the Chairman or Chief Executive Officer of the Agency and counsel to the Agency shall agree (the “**Lease Agreement**”), by and between the Agency and the Company; and

WHEREAS, as security for a loan or loans, the Agency and the Company will execute and deliver to a lender or lenders not yet determined (collectively, the “**Lender**”), a mortgage or mortgages, and such other loan documents satisfactory to the Agency, upon advice of counsel, in both form and substance, as may be reasonably required by the Lender, to be dated a date to be determined, in connection with the financing, any refinancing or permanent financing of the costs of the acquisition, construction, renovation and equipping of the Facility (collectively, the “**Loan Documents**”); and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company in the form of: (i) exemptions from mortgage recording taxes for one or more mortgages securing an amount presently estimated to be \$57,958,682 but not to exceed \$61,000,000, corresponding to mortgage recording tax exemptions presently estimated to be \$434,690 but not to exceed \$457,500, in connection with the financing of the acquisition, construction, renovation and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of the acquisition, construction and equipping of the Facility, (ii) exemptions from sales and use taxes in an amount not to exceed \$1,703,806, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, and (iii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit C hereof); and

WHEREAS, in connection with the abatement of real property taxes as set forth in the PILOT Schedule on Exhibit C hereof, the current pro-rata allocation of PILOT payments to each affected tax jurisdiction in accordance with Section 858(15) of the Act and the estimated difference between the real property taxes on the Facility and the PILOT payments set forth on the PILOT Schedule on Exhibit C hereof are more fully described in the Cost Benefit Analysis (“**CBA**”) developed by the Agency in accordance with the provisions of Section 859-a(5)(b) of the Act, a copy of which CBA is attached hereto as Exhibit D; and

WHEREAS, a public hearing (the “**Hearing**”) was held on December 8, 2021, so that all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency or the location or nature of the Facility, could be heard; and

WHEREAS, notice of the Hearing was given on November 26, 2021 and such notice (together with proof of publication), was substantially in the form annexed hereto as Exhibit A; and

WHEREAS, the report of the Hearing is substantially in the form annexed hereto as Exhibit B; and

WHEREAS, the Agency has given due consideration to the application of the Applicant and to representations by the Applicant that the proposed Facility is either an inducement to the Applicant to maintain the competitive position of the Company in its industry; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the “**SEQR Act**” or “**SEQR**”), the Agency constitutes a “State Agency”; and

WHEREAS, to aid the Agency in determining whether the Facility may have a significant effect upon the environment, the Company has prepared and submitted to the Agency an Environmental Assessment Form (the “EAF”) and related documents (collectively, the “Questionnaire”) with respect to the Facility, a copy of which is on file at the office of the Agency; and

WHEREAS, the Agency constitutes an “Involved Agency” (as defined in SEQR); and

WHEREAS, the Town of Brookhaven Planning Board (the “lead Agency”), reviewed the Facility as Lead Agency following coordinated review, determined that the Facility would not have a significant impact on the environment, and adopted a Negative Declaration for the Facility pursuant to the provisions of SEQR; and

WHEREAS, pursuant to a resolution, dated December 6, 2021, the Lead Agency determined that the Action in connection with the Facility (the “Action”), is a Type 1 Action for SEQR purposes; and

WHEREAS, this determination constitutes a negative declaration for purposes of SEQR and is binding on the Agency; and

WHEREAS, the Agency has reviewed the Questionnaire and such other documents as the Agency felt it necessary or appropriate to examine to adequately review the proposed Action; and

WHEREAS, the Agency finds that the negative declaration of the Town Board accurately and adequately examines environmental issues presented by the Action; and

WHEREAS, the Applicant has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated by the leasing of the Facility by the Agency to the Applicant;

NOW, THEREFORE, BE IT RESOLVED by the Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. Based upon the EAF completed by the Company and other representations and information furnished regarding the Action, the Lead Agency, following coordinated review, determined that, based upon its review of the EAF, the appropriate criteria for determination of significance, and such other and further information which the Lead Agency felt necessary to review the Action, that the Action would not have a “significant effect” on the environment and, therefore, an environmental impact statement will not be prepared. This determination constitutes a negative declaration for purposes of SEQR and is binding on the Agency.

Section 2. The Agency hereby makes its findings and determination of the Facility as follows:

(a) While the Facility will be a Recreational Facility as defined in 854(9) of the Act and will be used in making sales or providing services to customers who personally visit the Facility would be considered a facility in accordance with the provisions of Section 862(a) of the

Act, based upon the representations and warranties of the Company in the Application, the Facility will provide services not readily available to the residents of the Town of Brookhaven.

(b) The Facility will preserve the public purposes of the Act by increasing the number of private sector jobs in the Town of Brookhaven. The Company has represented to the Agency that they will provide approximately twenty-two and one-half (22.5) full-time equivalent employees (“FTE”) within the first year of completion.

Section 3. The Agency hereby finds and determines:

(a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(b) The Facility constitutes a “project”, as such term is defined in the Act; and

(c) The Facility preserves the public purposes of the Act by preserving or increasing the number of permanent private sector jobs in the Town of Brookhaven. The Applicant has represented to the Agency that it expects to provide twenty-two and one-half (22.5) full-time equivalent employees within the first year of operation and the Applicant expects the number of jobs to increase upon the second year of operation; and

(d) The acquisition, construction, renovation and equipping of the Facility and the leasing of the Facility to the Applicant, will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Town of Brookhaven, and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(e) The acquisition, construction, renovation and equipping of the Facility is reasonably necessary to induce the Applicant to maintain and expand its business operations in the State of New York; and

(f) Based upon representations of the Applicant and counsel to the Applicant, the Facility conforms with the local zoning laws and planning regulations of the Town of Brookhaven, Suffolk County, and all regional and local land use plans for the area in which the Facility is located; and

(g) It is desirable and in the public interest for the Agency to sublease the Land and the Improvements and to lease the Facility Equipment to the Company; and

(h) The Company Lease will be an effective instrument whereby the Agency leases the Land and the Improvements from the Company; and

(i) The Lease Agreement will be an effective instrument whereby the Agency leases and subleases the Company Facility to the Company, the Agency and the Company set forth the terms and conditions of their agreement regarding payments-in-lieu of taxes, the Company agrees to comply with all Environmental Laws (as defined therein) applicable to the Facility and

will describe the circumstances in which the Agreement may recapture some or all of the benefits granted to the Company; and

(j) The Loan Documents to which the Agency is a party will be effective instruments whereby the Agency and the Company agree to secure the Loan made to the Company by the Lender.

Section 4. The Agency has assessed all material information included in connection with the Applicant's application for financial assistance, including but not limited to, the cost-benefit analysis prepared by the Agency and such information has provided the Agency a reasonable basis for its decision to provide the financial assistance described herein to the Applicant.

Section 5. In consequence of the foregoing, the Agency hereby determines to: (i) lease the Land and the Improvements from the Company pursuant to the Company Lease, (ii) execute, deliver and perform the Company Lease, (iii) sublease and lease the Facility to the Company pursuant to the Lease Agreement, and (iv) execute, deliver and perform the Lease Agreement.

Section 6. The Agency is hereby authorized to acquire the real property and personal property described in Exhibit A and Exhibit B, respectively, to the Lease Agreement, and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition are hereby approved, ratified and confirmed.

Section 7. The Agency hereby authorizes and approves the following economic benefits to be granted to the Company in connection with the acquisition, construction and equipping of the Facility in the form of: (i) exemptions from mortgage recording taxes for one or more mortgages securing an amount presently estimated to be \$57,958,682 but not to exceed \$61,000,000, corresponding to mortgage recording tax exemptions presently estimated to be \$434,690 but not to exceed \$457,500, in connection with the financing of the acquisition, construction and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of the acquisition, construction and equipping of the Facility, (ii) exemptions from sales and use taxes in an amount not to exceed \$1,703,806, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, and (iii) abatement of real property taxes. In connection with the abatement of real property taxes as set forth in the PILOT Schedule on Exhibit C hereof, the current pro-rata allocation of PILOT payments to each affected tax jurisdiction in accordance with Section 858(15) of the Act and the estimated difference between the real property taxes on the Facility and the PILOT payments set forth on the PILOT Schedule on Exhibit C hereof are more fully described in the CBA developed by the Agency in accordance with the provisions of Section 859-a(5)(b) of the Act, a copy of which CBA is attached hereto as Exhibit D.

Section 8. Subject to the provisions of this resolution, the Company is herewith and hereby appointed the agent of the Agency to acquire, construct, renovate and equip the Facility. The Company is hereby empowered to delegate its status as agent of the Agency to its agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Company may choose in order to acquire, construct, renovate and equip the Facility. The

Agency hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Company as agents of the Agency solely for purposes of making sales or leases of goods, services and supplies to the Facility, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Company, as agent of the Agency, shall be deemed to be on behalf of the Agency and for the benefit of the Facility. This agency appointment expressly excludes the purchase by the Company of any motor vehicles, including any cars, trucks, vans or buses which are licensed by the Department of Motor Vehicles for use on public highways or streets. The Company shall indemnify the Agency with respect to any transaction of any kind between and among the agents, subagents, contractors, subcontractors, materialmen, vendors and/or suppliers and the Company as agent of the Agency. The aforesaid appointment of the Company as agent of the Agency to acquire, construct, renovate and equip the Facility shall expire at the earlier of (a) the completion of such activities and improvements, (b) a date which the Agency designates, or (c) the date on which the Company has received exemptions from sales and use taxes in an amount not to exceed \$1,703,806, in connection with the purchase or lease of equipment, building materials, services or other personal property; provided however, such appointment may be extended at the discretion of the Agency, upon the written request of the Company if such activities and improvements are not completed by such time. The aforesaid appointment of the Company is subject to the completion of the transaction and the execution of the documents contemplated by this resolution.

Section 9. The Company is hereby notified that it will be required to comply with Section 875 of the Act. The Company shall be required to agree to the terms of Section 875 pursuant to the Lease Agreement. The Company is further notified that the tax exemptions and abatements provided pursuant to the Act and the appointment of the Company as agent of the Agency pursuant to this Authorizing Resolution are subject to termination and recapture of benefits pursuant to Sections 859-a and 875 of the Act and the recapture provisions of the Lease Agreement

Section 10. The form and substance of the Company Lease, the Lease Agreement, the Agency Compliance Agreement, and the Loan Documents to which the Agency is a party (each in substantially the forms presented to or approved by the Agency and which, prior to the execution and delivery thereof, may be redated and renamed) are hereby approved.

Section 11.

(a) The Chairman, Vice Chairman, Chief Executive Officer or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Company Lease, the Lease Agreement, the Agency Compliance Agreement, and the Loan Documents to which the Agency is a party, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, Vice Chairman, Chief Executive Officer or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman and counsel to the Agency, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter

collectively called the “**Agency Documents**”). The execution thereof by the Chairman, Vice Chairman, Chief Executive Officer or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, the Chief Executive Officer of the Agency or any member of the Agency are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 12. 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 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 13. Any expenses incurred by the Agency with respect to the Facility shall be paid by the Company. The Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Facility.

Section 14. The provisions of this resolution shall continue to be effective for one year from the date hereof, whereupon the Agency may, at its option, terminate the effectiveness of this Resolution (except with respect to the matters contained in Section 13 hereof).

Section 15. This resolution shall take effect immediately.

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

I, the undersigned Chief Executive Officer of the Town of Brookhaven Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Town of Brookhaven Industrial Development Agency (the “**Agency**”), including the resolutions contained therein, held on the 8th day of December, 2021, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Agency Documents contained in this transcript of proceedings are each in substantially the form presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY that, due to the ongoing public health crisis caused by the Novel Coronavirus (COVID-19) and pursuant to Chapter 417 of the laws of 2021, effective September 2, 2021 through January 15, 2022, permitting local governments to hold public hearings by telephone and video conference and/or similar device, the Agency’s Board Meeting on December 8, 2021 (the “**Board Meeting**”), was held electronically via webinar instead of a public meeting open for the public to attend in person. Members of the public were advised, via the Agency’s website, to listen to the Board Meeting by <https://us02web.zoom.us/j/85472982940?pwd=TkpqWnVFdXdzMzM4QVY2dDF5VU9UQT09> and entering passcode 377050, and were further advised that the Minutes of the Board Meeting would be transcribed and posted on the Agency’s website, and that all members of said Agency had due notice of said meeting and that the meeting was in all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 8th day of December, 2021.

By: _____
 Chief Executive Officer

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York State General Municipal Law will be held by the Town of Brookhaven Industrial Development Agency (the “**Agency**”) on the 8th day of December, 2021, at 11:00 a.m. local time, the Agency’s offices located at the Town of Brookhaven Town Hall, 2nd Floor, One Independence Hill, Farmingville, New York 11738, in connection with the following matters:

AVR-SP Brookhaven JV LLC, a limited liability company organized and existing under the laws of the State of Delaware and authorized to transact business in the State of New York, on behalf of itself and/or the principals and/or equity investors of AVR-SP Brookhaven JV LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Company**”), has applied to the Agency for assistance in connection with: (a) the acquisition of an approximately 47.26-acre parcel of land located at Eastern terminus of Precision Drive, Shirley, New York 11967 (SCTM# 0200-554.00-03.00-004.410, 004.450 & 004.460) (the “**Land**”), (b) the clearance of 27.88 acres of the Land and the construction thereupon of two (2) buildings, totaling approximately 401,080 square feet, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the “**Improvements**”), and the acquisition and installation therein of certain equipment and personal property (the “**Facility Equipment**”; and together with the Land and the Improvements, the “**Company Facility**”), which Company Facility will be leased by the Company to the Agency and will be subleased by the Agency back to the Company. The Facility is to be used by the Company as two industrial buildings to be leased to tenants for warehouse and distribution operations or other permitted uses within the L1 Industrial zone (the “**Project**”). The Project will operate in an effort to attract tenants to the location, resulting in job creation and additional tax revenues for the Town. The Company Facility will be initially owned, operated and/or managed by the Company. The Equipment will be initially owned, operated and/or managed by the Company.

The Agency will acquire a leasehold interest in the Land and the Improvements and title to the Facility Equipment from the Company. The Agency will sublease and lease the Company Facility to the Company. The Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from mortgage recording taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes in connection with the construction and equipping of the Facility and abatement of real property taxes consistent with the uniform tax exemption policies (“**UTEP**”) of the Agency.

A representative of the Agency will, at the above-stated time and place, hear and accept written comments from all persons with views in favor of or opposed to either the proposed financial assistance to the Company and the Sublessee or the location or nature of the Facility. Prior to the hearing, all persons will have the opportunity to review on the Agency’s website

(<https://brookhavenida.org/>), the application for financial assistance filed by the Company and the Sublessee with the Agency and an analysis of the costs and benefits of the proposed Facility.

Due to COVID-19 protocols, all persons attending the Public Hearing will be required to wear face masks and maintain proper social distancing.

Dated: November 26, 2021

TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY

By: Lisa MG Mulligan
Title: Chief Executive Officer

EXHIBIT B

MINUTES OF PUBLIC HEARING HELD ON
DECEMBER 8, 2021 AT 11:00 A.M.

TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY
(AVR-SP BROOKHAVEN JV, LLC 2021 FACILITY)

Section 16. Lisa MG Mulligan, Chief Executive Officer of the Town of Brookhaven Industrial Development Agency (the “**Agency**”) called the hearing to order.

Section 17. Lisa MG Mulligan then appointed herself the hearing officer of the Agency, to record the minutes of the hearing.

Section 18. The hearing officer then described the proposed transfer of the real estate, the other financial assistance proposed by the Agency and the location and nature of the Facility as follows:

AVR-SP Brookhaven JV LLC, a limited liability company organized and existing under the laws of the State of Delaware and authorized to transact business in the State of New York, on behalf of itself and/or the principals and/or equity investors of AVR-SP Brookhaven JV LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Company**”), has applied to the Agency for assistance in connection with: (a) the acquisition of an approximately 47.26-acre parcel of land located at Eastern terminus of Precision Drive, Shirley, New York 11967 (SCTM# 0200-554.00-03.00-004.410, 004.450 & 004.460) (the “**Land**”), (b) the clearance of 27.88 acres of the Land and the construction thereupon of two (2) buildings, totaling approximately 401,080 square feet, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the “**Improvements**”), and the acquisition and installation therein of certain equipment and personal property (the “**Facility Equipment**”; and together with the Land and the Improvements, the “**Company Facility**”), which Company Facility will be leased by the Company to the Agency and will be subleased by the Agency back to the Company. The Facility is to be used by the Company as two industrial buildings to be leased to tenants for warehouse and distribution operations or other permitted uses within the L1 Industrial zone (the “**Project**”). The Project will operate in an effort to attract tenants to the location, resulting in job creation and additional tax revenues for the Town. The Company Facility will be initially owned, operated and/or managed by the Company. The Equipment will be initially owned, operated and/or managed by the Company.

The Agency will acquire a leasehold interest in the Land and the Improvements and title to the Facility Equipment from the Company. The Agency will sublease and lease the Company Facility to the Company. The Agency contemplates that it will

provide financial assistance to the Company in the form of exemptions from mortgage recording taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes in connection with the construction and equipping of the Facility and abatement of real property taxes consistent with the uniform tax exemption policies (“UTEF”) of the Agency.

Section 19. The hearing officer then opened the hearing for comments from the floor for or against the proposed transfer of real estate, the other financial assistance proposed by the Agency and the location and nature of the Facility. The following is a listing of the persons heard and a summary of their views:

N/A

Section 20. The hearing officer then asked if there were any further comments, and, there being none, the hearing was closed at 11:30 a.m.

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

I, the undersigned Chief Executive Officer of the Town of Brookhaven Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the foregoing copy of the minutes of a public hearing held by the Town of Brookhaven Industrial Development Agency (the “**Agency**”) on December 8, 2021 at 11:00 a.m., local time, electronically, with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of the minutes in connection with such matter.

IN WITNESS WHEREOF, I have hereunto set my hand as of December 8, 2021.

Lisa MG Mulligan, Chief Executive Officer

EXHIBIT C

Proposed PILOT Schedule

Schedule of payments-in-lieu-of-taxes: Town of Brookhaven, (including any existing incorporated village and any village which may be incorporated after the date hereof, within which the Facility is wholly or partially located), Longwood School District, Suffolk County and Appropriate Special Districts

Property Address: Eastern terminus of Precision Drive, Shirley, New York

Tax Map Nos. 0200-554.00-03.00-004.410, 004.450 & 004.460

School District: Longwood School District

<u>Year</u>	<u>Payment</u>
1	93,651
2	95,524
3	97,435
4	99,383
5	101,371
6	109,165
7	222,697
8	340,726
9	463,388
10	590,819
11	723,163
12	860,564
13	1,003,172
14	1,151,140
15	1,304,625

EXHIBIT D

Cost Benefit Analysis