

Date: April 15, 2015

At a meeting of the Town of Brookhaven Industrial Development Agency (the "Agency"), held at 1 Independence Hill, 3rd Floor, Farmingville, New York 11738, on the 15th day of April, 2015, the following members of the Agency were:

Present: Frederick C. Braun, III, Martin Callahan, Felix J. Grucci, Jr.,
Michael Kelly, Scott Middleton, John O'Loughlin
& Ann-Marie Scheidt

Recused:

Absent:

Also Present: Lisa M. G. Mulligan, Chief Executive Officer
James Ryan, Chief Financial Officer

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 (D & F Patchogue A.L., LLC/ Carlisle Patchogue Operator, Inc. 2015 Facility) and the leasing of the facility to D & F Patchogue A.L., LLC and further subleasing to Carlisle Patchogue Operator, Inc.

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

Voting Aye

Braun
Callahan
Grucci
Kelly
Middleton
O'Loughlin
Scheidt

Voting Nay

RESOLUTION OF THE TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE APPOINTMENT OF D & F PATCHOGUE A.L., LLC, A NEW YORK LIMITED LIABILITY COMPANY, ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF D & F PATCHOGUE A.L., LLC AND CARLISLE PATCHOGUE OPERATOR, INC., A NEW YORK BUSINESS CORPORATION, ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF CARLISLE PATCHOGUE OPERATOR, INC. AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING AS AGENT OF THE AGENCY FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING AND EQUIPPING THE FACILITY, APPROVING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF SUCH INDUSTRIAL DEVELOPMENT FACILITY 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, D & F Patchogue A.L., LLC, a limited liability company duly organized and validly existing under the laws of the State of New York, on behalf of itself and/or the principals of D & F Patchogue A.L., LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Company**”) and Carlisle Patchogue Operator, Inc., a business corporation duly organized and validly existing under the laws of the State of New York, on behalf of itself and/or the principals of Carlisle Patchogue Operator, Inc. and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Sublessee**”), have requested the Agency’s assistance with (a) the acquisition of 3 parcels of land totaling approximately 1.33 acres located at 131 East Main Street, 18 Maple Avenue and 22 Maple Avenue, all in the Village of Patchogue, Town of Brookhaven, Suffolk County, New York (also identified as SCTM#’s 0204-09.00-07.00-025.005, 026.007 and 0204-09.00-07.00-016.000) (collectively, the “**Land**”) and the construction and equipping thereon of an approximately 87,000 square foot 5-story building containing approximately 128 units comprised of approximately 146 beds of which approximately 100 will be assisted living beds and approximately 46 shall be memory care beds, 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 not part of the Equipment (as such term is defined herein) (the “**Facility Equipment**”; and, together with the Land and the Improvements, the “**Company Facility**”), which Company Facility will be leased by the Agency to the Company for further sublease to

the sublessee, and (b) the Agency's assistance with the renovation of the Company Facility and the acquisition and installation of certain equipment and personal property (the "**Equipment**"), which Equipment is to be leased by the Agency to the Sublessee (the Company Facility and the Equipment are collectively referred to herein as the "**Facility**"), and which Facility shall be used by the Sublessee as an affordable senior housing facility with an emphasis on special needs such as frail elderly and those with mobility impairments, including the following as they relate to the acquisition, construction and equipping of such Facility, whether or not any materials or supplies described below are incorporated into or become an integral part of such Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with the acquisition, construction and equipping of the Facility, (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with the acquisition, construction and equipping of the Facility, and (iii) all purchases, leases, rentals and uses of equipment, machinery and other tangible personal property (including installation costs with respect thereto) installed or placed in, upon or under such Facility; 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 April 1, 2015, or such other date as may be determined by the Chairman, Chief Executive Officer and counsel to the Agency (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 (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 Agreement, dated as of April 1, 2015, or such other date as may be determined by the Chairman, Chief Executive Officer and counsel to the Agency (the "**Lease Agreement**"), by and between the Agency and the Company; and

WHEREAS, the Agency will acquire title to the Equipment pursuant to a certain Equipment Bill of Sale, date the Closing Date (the "**Equipment Bill of Sale**") from the Sublessee to the Agency; and

WHEREAS, the Agency will lease the Equipment to the Sublessee pursuant to a certain Equipment Lease Agreement, dated as of April 1, 2015, or such other date as may be determined by the Chairman, Chief Executive Officer and counsel to the Agency (the "**Equipment Lease Agreement**"), by and between the Agency and the Sublessee; and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company consistent with the policies of the Agency, in the form of (i) exemptions from sales and use taxes in an amount not to exceed \$[900,000], in connection with the purchase or lease of equipment, building materials, services or other personal property, and (ii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit E hereof), consistent with the policies of the Agency; 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, a public hearing (the “**Hearing**”) was held and notice of the Hearing was given and such notice (together with proof of publication) together with the minutes of the Hearing are in substantially in the form annexed hereto as Exhibits A and B respectively; and

WHEREAS, a second public hearing (the “**Supplemental Hearing**”) was held and notice of the Supplemental Hearing was given and such notice (together with proof of publication) together with the minutes of the Supplemental Hearing are in substantially in the form annexed hereto as Exhibits C and D respectively; and

WHEREAS, the Agency has given due consideration to the application of the Company and the Sublessee and to representations by the Company and the Sublessee that the proposed Facility is either an inducement to the Company and the Sublessee to maintain and expand the Facility in the Town of Brookhaven or is necessary to maintain the competitive position of the Company and the Sublessee in their respective industries; and

WHEREAS, in order to define the Company’s and the Sublessee’s obligations regarding payments-in-lieu-of taxes with respect to the Facility, the Agency, the Company and the Sublessee will enter into a certain Payment-in-Lieu-of-Tax Agreement, dated as of April 1, 2015, or such other date as may be determined by the Chairman, Chief Executive Officer and counsel to the Agency (the “**PILOT Agreement**”), pursuant to which the Company and Sublessee will make payments in lieu of taxes on the Facility; and

WHEREAS, in connection with the leasing of the Facility, the Agency, the Company and the Sublessee will enter into a certain Recapture Agreement, dated as of April 1, 2015, or such other date as may be determined by the Chairman, Chief Executive Officer and counsel to the Agency (the “**Recapture Agreement**”), among the Agency, the Company and the Sublessee; and

WHEREAS, the Company and the Sublessee have 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 Company;

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 acquisition, construction and equipping of the Company Facility, the leasing of the Company Facility to the Company, the subleasing of the Company Facility by the Company to the Sublessee, the acquisition of the Equipment by the Agency and the leasing thereof to the Sublessee 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

(d) The acquisition, construction and equipping of the Facility is reasonably necessary to induce the Company and the Sublessee to maintain and expand their business operations in the State of New York; and

(e) Based upon representations of the Company and the Sublessee and counsel to the Company and the Sublessee, 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

(f) The Facility and the operations conducted therein do not have a significant effect on the environment, as determined in accordance with Article 8 of the Environmental Conservation Law of the State of New York and the regulations promulgated thereunder; and

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

(j) The Equipment Lease Agreement will be an effective instrument whereby the Agency leases the Equipment to the Sublessee; and

(k) The PILOT Agreement will be an effective instrument whereby the Agency, the Company and the Sublessee set forth the terms and conditions of their agreement regarding the Company's and the Sublessee's payments in lieu of real property taxes; and

(l) The Recapture Agreement will be an effective instrument whereby the Agency, the Company and the Sublessee agree to provide for the obligations of the Company and the Sublessee under the Transaction Documents (as defined in the Lease Agreement) and describe the circumstances in which the Agency may recapture some or all of the benefits granted to the Company and the Sublessee; and

(m) The Environmental Compliance and Indemnification Agreement, dated as of April 1, 2015 or such other date as may be determined by the Chairman, Chief Executive Officer and counsel to the Agency (the "**Environmental Compliance and Indemnification Agreement**"), by and among the Agency, the Company and the Sublessee will be an effective instrument whereby the Company and the Sublessee agree to comply with all

Environmental Laws (as defined therein) applicable to the Facility and will indemnify and hold harmless the Agency for all liability under all such Environmental Laws; and

(n) The Agency Compliance Agreement, dated as of April 1, 2015 or such other date as may be determined by the Chairman, Chief Executive Officer and counsel to the Agency (the “**Agency Compliance Agreement**”), between the Agency and the Sublessee will be an effective instrument whereby the Sublessee will provide certain assurances to the Agency with respect to the Sublease Agreement.

Section 2. 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) lease the Company Facility to the Company pursuant to the Lease Agreement, (iv) execute, deliver and perform the Lease Agreement, (v) lease the Equipment to the Sublessee pursuant to the Equipment Lease Agreement, (vi) execute, deliver and perform the Equipment Lease Agreement, (vii) execute, deliver and perform the PILOT Agreement, (viii) execute, deliver and perform the Recapture Agreement, (ix) execute and deliver the Environmental Compliance and Indemnification Agreement, and (x) execute and deliver the Agency Compliance Agreement.

Section 3. 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 the personal property described in Exhibit A to the Equipment 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 4. The Agency is hereby authorized to acquire the Facility 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 5. The Agency hereby authorizes and approves the following economic benefits to be granted to the Company and the Sublessee in connection with the acquisition, construction and equipping of the Facility in the form of (i) exemptions from sales and use taxes in an amount not to exceed \$745,200.00, in connection with the purchase or lease of equipment, building materials, services or other personal property, and (ii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit E hereof), consistent with the policies of the Agency.

Section 6. Subject to the provisions of this resolution, the Company and the Sublessee are herewith and hereby appointed the agents of the Agency to acquire, construct and equip the Facility. The Company and the Sublessee are hereby empowered to delegate their respective status as agent of the Agency to its agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Company and the Sublessee may choose in order to acquire, construct and equip the Facility. The Agency hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Company and the Sublessee 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 and the Sublessee, as agents 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 and the Sublessee 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 and the Sublessee 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 and the Sublessee, as agent of the Agency. The aforesaid appointment of the Company and the Sublessee as agents of the Agency to acquire, construct 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 and the Sublessee have received exemptions from sales and use taxes in an amount not to exceed \$580,000 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 and/or the Sublessee if such activities and improvements are not completed by such time. The aforesaid appointment of the Company and the Sublessee is subject to the completion of the transaction and the execution of the documents contemplated by this resolution.

Section 7. The Company and the Sublessee hereby agree to comply with Section 875 of the Act. The Company and the Sublessee further agree that the exemption of sales and use tax provided pursuant to the Act and the appointment of the Company and the Sublessee as agents of the Agency pursuant to this Authorizing Resolution is subject to termination and recapture of benefits pursuant to Section 875 of the Act and the Recapture Agreement.

Section 8. The form and substance of the Company Lease, the Lease Agreement, the Equipment Lease Agreement, the PILOT Agreement, the Recapture Agreement, the Environmental Compliance and Indemnification Agreement and the Agency Compliance Agreement (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 9.

(a) The 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 Equipment Lease Agreement, the PILOT Agreement, the Recapture Agreement, the Environmental Compliance and Indemnification Agreement and the Agency Compliance Agreement, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the 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, Chief Executive Officer or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, Chief Executive Officer 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 10. 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 11. Any expenses incurred by the Agency with respect to the Facility shall be paid by the Company and/or the Sublessee. The Company and the Sublessee agree to pay such expenses and further agree 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 12. This resolution shall take effect immediately.

ADOPTED: April 15, 2015

