

TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY

APPLICATION FOR CONSENT TO SUBLEASE

APPLICATION OF: Grucci Properties East LLC ("Company")

FOR CONSENT TO SUBLEASE TO

Bold Systems, LLC ("Subtenant")

FACILITY/PROJECT: Grucci Properties East LLC/Fireworks by Grucci, Inc./
Pyrotechnique by Grucci, Inc. - 2013 Facility

Please respond to all items either by filing in blanks, by attachment (by marking space "see attachment number 1", etc.) or by N.A., where not applicable. Application must be filed in ten copies. A \$750.00 non-refundable application fee is required at the time of submission to the Agency.

Information provided herein will not be made public by the Agency prior to the passage of an official Resolution, but may be subject to disclosure under the New York State Freedom of Information Act.

Please write or call:
Town of Brookhaven Industrial Development Agency
c/o Town of Brookhaven Division of Economic Development

One Independence Hill
Farmingville, New York 11738

(631) 451-6563

I. COMPANY DATA

A. COMPANY:

NAME: Grucci Properties East LLC

ADDRESS: 20 Pinehurst Drive, Bellport, NY 11749

CONTACT: Felix J. Grucci (Phil Grucci)

POSITION: Sole Member

PHONE: 631-286-0088 x 13

FEDERAL EMPLOYER I.D.: [REDACTED]

B. RELATED USERS OF THE FACILITY:

[illegible]

Fireworks by Grucci, Inc.

Pyrotechnique by Grucci, Inc.

[illegible]

C. COMPANY COUNSEL:

FIRM NAME: Ruskin Moscou Faltischek P.C.

ADDRESS: 1425 RXR Plaza, East Tower, 15th Floor, Uniondale, NY 11556

INDIVIDUAL ATTORNEY: David P. Leno, Esq.

PHONE: 516-663-6544

D. PRINCIPAL STOCKHOLDERS, MEMBERS OR PARTNERS, IF ANY, OF COMPANY AND RELATED USERS (5% OR MORE EQUITY):

NAME	PERCENT OWNED	COMPANY/ RELATED USER
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Felix J. Grucci	100%	All Companies Listed Above
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II. PROJECT/FACILITY DATA

A. LOCATION OF PROJECT:

ADDRESS: 20 Pinehurst Drive, Bellport, NY

S.C. TAX MAP:

DISTRICT 200 SECTION 813 BLOCK 01.00 LOT 008.029

B. PROJECT SITE:

1. ACREAGE:

Approximately 1.75 acre parcel

2. BUILDING:

A) SIZE

19,197

B) CURRENT OCCUPANTS, AREA OCCUPIED AND USES

CURRENT OCCUPANT	AREA OCCUPIED (Sq. Ft.)	USE
<u>Fireworks by Grucci, Inc.</u>	<u> </u>	<u> </u>
<u>Pyrotechnique by Grucci, Inc.</u>	<u>16,697</u>	<u>General Office</u>
<u> </u>	<u> </u>	<u> </u>

III. PROPOSED SUBTENANT

A. NAME AND ADDRESS

Bold Systems, LLC

20 Pinehurst Drive, Bellport, New York 11713

B. AFFILIATES' NAMES AND ADDRESSES

C. CURRENT LOCATION

20 Pinehurst Drive

Bellport, New York

D. NAME AND ADDRESS OF PRINCIPALS OF SUBTENANT AND AFFILIATES

Brian J. Jusas - sole Member

5 Fox Point Drive

Nissequogue, New York 11780

E. RELATIONSHIP OF SUBTENANT TO COMPANY

Tenancy only

F. PROPOSED AREA TO BE OCCUPIED

2,500 square foot floor area

G. PROPOSED USE BY SUBTENANT

General office

H. DOES PROPOSED USE AND OCCUPANCY COMPLY WITH ALL PLANNING, ZONING, BUILDING, HEALTH AND ENVIRONMENTAL LAWS, REGULATIONS AND REQUIREMENTS, AND ALL COVENANTS, AGREEMENTS AND DECLARATIONS OF RECORD?

Yes

I. PROPOSED SUBLEASE TERMS

TERM:

Monthly

COMMENCEMENT DATE:

Simultaneous with approval.

SECURITY:

None

GUARANTORS:

None

BASE RENT:

\$3,333.33 monthly

BASE RENT INCREASES:

N/A

COMMON AREA RENT:

N/A

REAL ESTATE TAXES:

N/A

IMPROVEMENTS TO PROPOSED DEMISED AREA TO BE MADE BY
COMPANY

DESCRIPTION: None

COST: N/A

SOURCE OF PAYMENT: N/A

IMPROVEMENTS TO PROPOSED DEMISED AREA TO BE MADE BY
SUBTENANT

None

DESCRIPTION: _____

COST: _____ N/A

SOURCE OF PAYMENT: _____ N/A

FAIR MARKET RENT EVALUATION
IS RENT TO BE CHARGED FAIR MARKET?

Yes

HOW WAS FAIR MARKET RENT DETERMINED? (ATTACH
SUPPORTING DOCUMENTATION)

Similar to rent to which subtenant established for other
similarly situated leases.

DOES OR WILL ANY OF THE "FINANCIAL ASSISTANCE" PROVIDED BY
THE AGENCY, INCLUDING REAL ESTATE TAX EXEMPTION, SALES
AND USE TAX EXEMPTION AND MORTGAGE RECORDING TAX
EXEMPTION, BENEFIT THE SUBTENANT IN ANY MANNER? IF SO,
EXPLAIN.

No

ATTACH COPY OF EXECUTED SUBLEASE (MAY BE CONDITIONED
UPON AGENCY APPROVAL).

IV. MORTGAGEES

HAVE THE HOLDERS OF ALL MORTGAGES OF RECORD CONSENTED TO THE
PROPOSED SUBLEASE? (ATTACH EVIDENCE THEREOF).

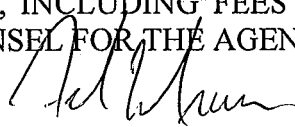
N/A

COMPANY CERTIFICATION

Felix J. Grucci [Insert name of chief executive officer/manager/partner of proposed subtenant] DEPOSES AND SAYS THAT HE IS THE Sole Member [insert title] OF Grucci Properties East LLC [insert name of Company], THE COMPANY NAMED IN THE ATTACHED APPLICATION; THAT HE HAS READ THE FOREGOING APPLICATION AND KNOWS THE CONTENTS THEREOF; THAT THE SAME IS TRUE TO HIS KNOWLEDGE.

DEPONENT FURTHER SAYS THAT THE REASON THIS VERIFICATION IS BEING MADE BY THE DEPONENT AND NOT BY Grucci Properties East LLC [insert name of Company] IS BECAUSE THE SAID COMPANY IS A Limited Liability Company [insert type of entity]. THE GROUNDS OF DEPONENT'S BELIEF RELATIVE TO ALL MATTERS IN THE SAID APPLICATION WHICH ARE NOT STATED UPON HIS OWN PERSONAL KNOWLEDGE, ARE INVESTIGATIONS WHICH DEPONENT HAS CAUSED TO BE MADE CONCERNING THE SUBJECT MATTER OF THIS APPLICATION AS WELL AS INFORMATION ACQUIRED BY DEPONENT IN THE COURSE OF HIS DUTIES AS AN OFFICER OF AND FROM BOOKS AND PAPERS OF SAID COMPANY.

AS AN Member [insert position, e.g., officer, member, manager, partner] OF SAID COMPANY (HEREINAFTER REFERRED TO AS THE "APPLICANT"), DEPONENT ACKNOWLEDGES AND AGREES THAT APPLICANT SHALL BE AND IS RESPONSIBLE FOR ALL COSTS INCURRED BY THE TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY (HEREINAFTER REFERRED TO AS THE "AGENCY") IN CONNECTION WITH THIS APPLICATION AND ALL MATTERS RELATING TO THE PROPOSED SUBLEASE, INCLUDING THE AGENCY'S ATTORNEYS' FEES, REGARDLESS OF WHETHER OR NOT THE APPLICANT FAILS TO CONCLUDE OR CONSUMMATE NECESSARY NEGOTIATIONS OR FAILS TO ACT WITHIN A REASONABLE OR SPECIFIED PERIOD OF TIME TO TAKE REASONABLE, PROPER, OR REQUESTED ACTION OR WITHDRAWS, ABANDONS, CANCELS, OR NEGLECTS THE APPLICATION OR IF THE APPLICANT IS UNABLE TO CONSUMMATE THE SUBLEASE FOR ANY REASON. UPON PRESENTATION OF INVOICES, APPLICANT SHALL PAY TO THE AGENCY, ITS AGENTS OR ASSIGNS, ALL COSTS INCURRED WITH RESPECT TO THE APPLICATION, INCLUDING FEES TO COUNSEL FOR THE AGENCY AND FEES OF GENERAL COUNSEL FOR THE AGENCY.



Chief Executive Officer/Member/Manager/Partner
of Company

Sworn to before me this
23rd day of May 2015.

Donna M Hough
NOTARY PUBLIC

DONNA M HOUGH Notary Public, State of New York Registration #01HO6317597 Qualified In Suffolk County Commission Expires Jan. 5, 20 <u>19</u>
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SUBTENANT CERTIFICATION

Brian J. Jusas [Insert name of chief executive officer/manager/partner of proposed subtenant] DEPOSES AND SAYS THAT HE IS THE Sole Member [insert title] OF Bold Systems, LLC, THE PROPOSED SUBTENANT [insert name of subtenant] NAMED IN THE ATTACHED APPLICATION; THAT HE HAS READ THE FOREGOING APPLICATION AND KNOWS THE CONTENTS THEREOF; THAT THE SAME IS TRUE TO HIS KNOWLEDGE.

DEPONENT FURTHER SAYS THAT THE REASON THIS VERIFICATION IS BEING MADE BY THE DEPONENT AND NOT BY Bold Systems, LLC

[insert name of subtenant] IS BECAUSE THE SAID PROPOSED SUBTENANT IS A limited liability company [insert type of entity]. THE GROUNDS OF DEPONENT'S BELIEF RELATIVE TO ALL MATTERS IN THE SAID APPLICATION WHICH ARE NOT STATED UPON HIS OWN PERSONAL KNOWLEDGE, ARE INVESTIGATIONS WHICH DEPONENT HAS CAUSED TO BE MADE CONCERNING THE SUBJECT MATTER OF THIS APPLICATION AS WELL AS INFORMATION ACQUIRED BY DEPONENT IN THE COURSE OF HIS DUTIES AS AN OFFICER OF AND FROM BOOKS AND PAPERS OF SAID PROPOSED SUBTENANT.

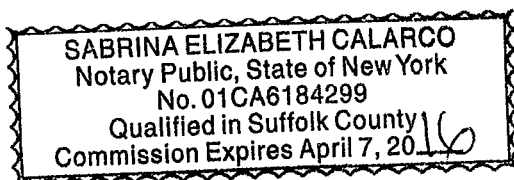


Chief Executive Officer/Member/Manager/Partner
of Proposed Subtenant

Sworn to before me this
24 day of April 2015.



NOTARY PUBLIC



SUBLEASE AGREEMENT

Sublease Agreement ("Sublease") made as of February __, 2015, between **GRUCCI PROPERTIES EAST LLC**, having an office at 20 Pinehurst Drive, Bellport, New York ("Sublandlord"), and **BOLD SYSTEMS, LLC**, having an office at 20 Pinehurst Drive, Bellport, New York ("Subtenant").

1. **Demised Premises**. Sublandlord hereby leases to Subtenant and Subtenant hereby hires from Sublandlord two thousand five hundred (2,500) square feet of floor area (the "**Demised Premises**") in the building located at 20 Pinehurst Drive, Bellport, New York, such space being more particularly depicted on Exhibit A attached hereto and made a part hereof, for a term commencing on January 1, 2015 (the "**Commencement Date**") and continuing on a month to month basis until terminated by either party within thirty (30) days prior written notice to the other party (the "**Expiration Date**"), both dates inclusive, at the annual rental rate set forth herein and subject to and upon the terms set forth herein.

2. **Incorporation of Prime Lease**.

(a) This Sublease is subject and subordinate to all of the terms, covenants, provisions and conditions of that certain Lease Agreement dated as of June 1, 2009 and Amended and Restated as of August 1, 2013, between the Town of Brookhaven Industrial Development Agency, as landlord (the "**Prime Landlord**"), and Sublandlord, as tenant (the "**Prime Lease**"), and to all matters to which the Prime Lease is subject and subordinate. A redacted copy of the Prime Lease is attached hereto as Exhibit B and made a part hereof.

(b) Except as otherwise specifically provided herein, the terms, covenants, provisions and conditions contained in the Prime Lease (including, but not limited to, the remedies provided thereunder) are hereby incorporated into this Sublease. Any rights granted to Sublandlord (as tenant under the Prime Lease) are not hereby granted to Subtenant and Subtenant shall have only those rights as are specifically set forth in this Sublease. With regard to the Demised Premises, Subtenant hereby covenants and agrees to fully and faithfully perform the terms, covenants, provisions and conditions of the Prime Lease and this Sublease on its part to be performed. With regard to the Demised Premises, Subtenant shall not do or cause to be done or suffer or permit any act to be done which would or might cause the Prime Lease or the rights of Sublandlord, as tenant under the Prime Lease, to be endangered, canceled, terminated, forfeited, amended, modified or surrendered, or which would or might cause Sublandlord to be in default thereunder or liable for any damage, claim or penalty. Subtenant agrees, as an express inducement for Sublandlord's executing this Sublease, that if there is any conflict between the provisions of this Sublease and the provisions of the Prime Lease which would permit Subtenant to do or cause to be done or suffer or permit any act or thing to be done which is prohibited by the Prime Lease, then the provisions of the Prime Lease shall prevail. If the Prime Lease terminates or is terminated for any reason whatsoever, then this Sublease shall terminate simultaneously therewith.

(c) In any case, where under the Prime Lease the consent or approval of Prime Landlord is required, the consent or approval of Sublandlord shall also be required. Sublandlord's refusal to consent to or approve any matter or thing, whenever Sublandlord's reasonable consent or approval is required under this Sublease or under the Prime Lease, shall be

deemed reasonable if, among other things, Prime Landlord under the Prime Lease has refused to grant such consent or approval.

(d) Any indemnification by Sublandlord to Prime Landlord under the Prime Lease shall be deemed to run from Subtenant to Sublandlord hereunder. If any claims subject to Indemnification under the Prime Lease results in whole or in part due to the acts, omissions or negligence of the Subtenant, subtenant need only indemnify Sublandlord up to Subtenant's proportionate share of the premises.

(e) Sublandlord shall have no duty to perform any obligations of the Prime Landlord under the Prime Lease and shall under no circumstances be responsible for or liable to Subtenant for any default, failure or delay on the part of the Prime Landlord in the performance of any obligations under the Prime Lease, nor shall such default of the Prime Landlord affect this Sublease or waive or defer the performance of any of Subtenant's obligations hereunder; provided, nevertheless, that in the event of any such default or failure of performance by Prime Landlord, Sublandlord agrees, upon notice from Subtenant, to make demand upon Prime Landlord to perform its obligations under the Prime Lease. Nothing contained herein, however, shall be deemed to require Sublandlord to institute any legal proceeding against Prime Landlord in an attempt to cause Prime Landlord to perform its obligations under the Prime Lease.

(f) Subtenant shall indemnify and hold Sublandlord harmless from and defend Sublandlord against any and all damages, claims, demands, proceedings, actions, costs, losses, liabilities and expenses, including reasonable attorneys' fees and disbursements, incurred by Sublandlord by reason of the use or occupancy of the Premises by Subtenant, Subtenant's officers, directors, employees, contractors, agents or invitees and/or Subtenant's breach of the provisions of this Sublease (including, but not limited to any liabilities payable to the Prime Landlord on account of such breach).

3. **Fixed Rent**

(a) Tenant shall pay Landlord annual rent in equal monthly payments to be received by Landlord prior to the first (1st) day of any calendar month in accordance with the terms set forth below.

(b) Tenant shall pay Landlord monthly rent during the Term in equal monthly payments in accordance with the terms set forth below.

<u>TERM</u>	<u>MONTHLY PAYMENT</u>
Month to Month	\$ 3,333.33

4. **Additional Rent**

(a) In addition to the Fixed Rent provided for above, all other payments to be made by Subtenant to Sublandlord shall be deemed to be and shall become additional rent hereunder whether or not the same be designated as such, and unless otherwise provided, shall be due

and payable five (5) days after demand therefor. Sublandlord shall have the same remedies under this Sublease for failure to pay additional rent as for the nonpayment of Fixed Rent. Subtenant's obligation to pay Fixed Rent or additional rent (collectively and individually referred to as "rent") for any portion of the term of the Sublease shall survive the expiration or termination of the term of this Sublease.

(b) Notwithstanding any provisions of this Sublease to the contrary, Sublandlord shall have the right (but not the obligation) upon notice to Subtenant to perform any of Subtenant's obligations, which may arise during the term of this Sublease, the cost of which shall be paid by Subtenant to Sublandlord as additional rent.

5. **Repairs and Maintenance.** Subtenant shall at its sole cost and expense, perform all maintenance and repairs required to be made in and to the Demised Premises in order to keep the Demised Premises in good order and condition. The term "repair" as used in this Paragraph 5 shall include replacement when necessary. Notwithstanding the foregoing, Sublandlord shall maintain the HVAC, electric, plumbing and structural elements of the Demised Premises. If there is any maintenance required for the HVAC, electric, plumbing and structural elements due to Subtenant's actions or omissions, Subtenant shall be liable for all costs associated with the repair or replacement.

6. **Condition of Premises.** Subtenant has examined the Demised Premises and agrees to accept the same in the condition and state of repair existing as of the date hereof. Sublandlord has made no representations or warranties whatsoever with respect to the Demised Premises. Subtenant understands and agrees that Sublandlord shall not perform any work, supply any materials or incur any expense to prepare the Demised Premises for Subtenant's occupancy. Subtenant and Sublandlord shall pay for their own garbage removal and cleaning services.

7. **Alterations, Additions and Improvements.** Subtenant shall not make any alterations, installations, improvements and additions, structural or non-structural (collectively, "Improvements") in and to the Demised Premises without first obtaining the written consent of the Sublandlord and the Prime Landlord as and when required by the Prime Lease. Any structural Improvements made by Subtenant, or by Sublandlord on behalf of Subtenant, in or upon the Demised Premises shall become the property of the Prime Landlord upon termination of this Sublease for any cause whatsoever, unless Prime Landlord or Sublandlord shall give Subtenant written notice prior to the termination of this Sublease to remove such Improvements, in which event Subtenant shall cause such removal and restore the Demised Premises to the same condition existing as of the date hereof, ordinary wear and tear excepted. Nonstructural Improvements may be removed and premises substantially restored by Subtenant.

8. **Damage or Destruction.** Sublandlord shall have no obligation to make any repairs or restoration to the Demised Premises necessitated by the actions or omissions of the Subtenant, which Subtenant hereby acknowledges and agrees, shall be the Subtenant's sole responsibility. Sublandlord shall, however, upon request use reasonable efforts to cause Prime Landlord to comply with such restoration and repair obligations that are not the responsibility of the Subtenant.

9. **Insurance.** Provided same is acceptable to the Town of Brookhaven Industrial Development Agency, Subtenant shall procure and maintain all insurance required to be maintained

by Sublandlord under the Prime Lease except insurance on the building and structure. Such insurance shall conform in all respects to the requirements set forth in the Prime Lease and, in addition, shall name Prime Landlord and Sublandlord as an additional insured. Subtenant shall provide Sublandlord with a certificate of insurance as required by this Paragraph 9 upon execution of this Sublease.

10. **Late Payments.** In addition to all of Sublandlord's other rights and remedies on account of Subtenant's default under this Sublease, Subtenant shall pay to Sublandlord, on demand therefor, a late charge equal to five (5%) percent of the amount of each item of Fixed Rent or additional rent which is not paid on the date same is due under this Sublease, to partially defray Sublandlord's administrative expenses with respect to such late payment.

11. **Holdover.** Subtenant shall hold harmless, indemnify and defend Sublandlord from and against any and all claims, demands, actions, proceedings, damages, losses, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements) (collectively, "Liabilities") arising from or relating to any delay by Subtenant or any occupant claiming under Subtenant in vacating and surrendering the Demised Premises in accordance with the provisions of this Sublease. Subtenant shall pay Sublandlord for each month (and each portion of any month) during which Subtenant holds over in the Demised Premises after the expiration or earlier termination of the term of this Sublease, a sum equal to 150% of the Fixed Rent and additional rent payable under this Sublease for the immediately preceding month of the lease term plus all damages sustained by Sublandlord and Prime Landlord by reason of Subtenant's holding over in possession. The receipt of such rent by Sublandlord shall not however, be deemed to constitute Sublandlord's consent to such occupancy by Subtenant nor in any manner nor to any extent affect Sublandlord's rights or remedies on account of such holding over, including, without limitation, the right to immediately dispossess Subtenant.

12. **Indemnity.**

(a) Subtenant covenants and agrees to indemnify, defend and hold Prime Landlord and Sublandlord harmless from and against any and all damages, claims, demands, proceedings, actions, losses, liabilities, costs and expenses (including reasonable attorneys' fees and disbursements) by or on behalf of any person arising from or in connection with (i) the conduct or management of, and the payment for, any work or thing whatsoever done in or about the Demised Premises for which Subtenant is responsible by or on behalf of Subtenant (or any person holding or claiming through Subtenant), (ii) Subtenant's negligence or tortious act or omission resulting in any hazardous, dangerous or faulty condition in or about the Demised Premises, the land or building, during the term of this Sublease and/or Subtenant's occupancy, use, non-use, possession, management or maintenance of the Demised Premises, the land or the building, or (iii) any accident, injury or damage whatsoever caused to any person occurring in or about the Demised Premises if caused by Subtenant's negligence or tortious act or omission, during the term of this Sublease and/or during Subtenant's occupancy, use, non-use, possession, management or maintenance of the Demised Premises, the land or the building. In case any action or proceeding shall be brought against Prime Landlord or Sublandlord by reason of the foregoing, Subtenant upon notice from Prime Landlord or Sublandlord agrees to resist or defend such action or proceeding (by counsel appointed by Subtenant's insurance carrier or other counsel reasonably satisfactory to Prime Landlord and Sublandlord), unless Subtenant causes the same to be promptly discharged and satisfied.

(b) Subtenant covenants and agrees to indemnify, defend and hold Sublandlord harmless from and against any and all damages, claims, demands, proceedings, actions, losses, liabilities, costs and expenses (including reasonable attorneys' fees and disbursements) paid or incurred by Sublandlord in obtaining possession of the Demised Premises after default by Subtenant or upon the expiration or sooner termination of this Sublease, or in enforcing any of Subtenant's obligations hereunder.

(c) The provisions of this Paragraph 12 shall survive the expiration or sooner termination of this Sublease.

13. **Use of Demised Premises.** Subtenant shall use the Demised Premises for general office space. Subtenant covenants and agrees that it shall not engage in, suffer or permit any act upon the Demised Premises, which may subject Prime Landlord or Sublandlord to any liability by reason of any illegal business or conduct or by reason of any violation of law or of any requirement of a governmental or public authority. Subtenant shall not use the Demised Premises in any manner, which is prohibited under the Prime Lease.

14. **Events of Default.** The occurrence of any event, which is deemed an event of default under the Prime Lease, shall be an event of default under this Sublease. In the event of the occurrence of an event of default under this Sublease or the occurrence of an event, which is deemed a default by Subtenant under the Prime Lease, Sublandlord shall have all of the rights and remedies granted to the Prime Landlord under the Prime Lease.

15. **Brokerage.** Each party represents and warrants to the other party that it dealt with no broker, finder or other person or entity, which would be entitled to a fee or commission in connection with the transaction contemplated by this Sublease. Each party shall hold harmless, indemnify and defend the other party from and against any claim for commission, fee or other liability arising from a breach of such party's representation and warranty. The provisions of this Paragraph 15 shall survive the expiration or sooner termination of this Sublease.

16. **Notice.** All notices required or permitted to be given under this Sublease shall be in writing and shall be deemed properly given and received, (i) if sent by commercial overnight courier on the date of receipt as evidenced by a receipt produced by the overnight carrier or (ii) if sent by registered or certified United States mail, postage prepaid, return receipt requested on the third (3rd) business day after posting by the applicable United States post office, addressed to the party to receive such notice at the following address or at such other addresses as either party may notify the other party in writing:

If to Sublandlord:

Grucci Properties East LLC
20 Pinehurst Drive
Bellport, New York 11713
Attention: Phil Grucci

with a copy to:

Ruskin Moscou Faltischek, P.C.

1425 RXR Plaza
East Tower, 15th Floor
Uniondale, New York 11556-0190
Attention: David P. Leno, Esq.

If to Subtenant:

Bold Systems, LLC
20 Pinehurst Drive
Bellport, New York 11713

with a copy to:

Klein & Vizzi, LLP
370 B Sunrise Highway
West Babylon, New York 11704

17. **Assigning, Mortgaging and Subletting.** Subtenant shall not assign, transfer by operation of law, or otherwise mortgage, pledge or encumber this Sublease and shall not sublet the Demised Premises or allow the Demised Premises or any portion thereof to be used by others without the prior written consent of Sublandlord in each instance, which consent shall be at the sole discretion of Sublandlord. No assignment, transfer or sublease shall relieve Subtenant of its obligations hereunder.

18. **No Offer.** The preparation and transmittal of this Sublease to Subtenant or Subtenant's attorney shall not constitute an offer to lease, and shall not be binding on Sublandlord until duly executed by Sublandlord and delivered to Subtenant or its attorney.

19. **Attorneys' Fees.** Subtenant hereby agrees to pay, as additional rent, all attorneys' fees and disbursements (and all other court costs or expenses of legal proceedings) which Sublandlord may incur or pay out by reason of, or in connection with:

- (a) any action or proceeding by Sublandlord to terminate this Sublease;
- (b) any other action or proceeding by Sublandlord against Subtenant (including, but not limited to, any arbitration proceeding);
- (c) any default by Subtenant in the observance or performance of any obligation under the Prime Lease or this Sublease (including, but not limited to, matters involving payment of Fixed Rent and additional rent, alterations or other Subtenant's work and subletting or assignment (whether or not Sublandlord commences any action or proceeding against Subtenant); and

Subtenant's obligations under this Paragraph shall survive the expiration of the term hereof or any other termination of this Sublease.

20. **Severability.** In the event that any one or more of the provisions contained in this Sublease shall for any reason be held to be invalid, illegal or unenforceable in any respect, such

invalidity, illegality, or unenforceability shall not affect any other provisions of this Sublease but this Sublease shall be construed as if such invalid or unenforceable provisions had never been contained herein.

21. **Failure to Give Possession.** If Sublandlord is unable to give possession of the Demised Premises on the Commencement Date for any reason, Sublandlord shall not be subject to any liability for failure to give possession on said date and the validity of this Sublease shall not be impaired under such circumstances, nor shall the same be construed in any way to extend the term of this Sublease, but the Fixed Rent and additional rent payable hereunder shall be abated (provided that Subtenant is not responsible for the inability to obtain possession) for the period of time after the Commencement Date that Sublandlord is delayed in delivering possession of the Demised Premises to Subtenant. The provisions of this Paragraph are intended to constitute "an express provision to the contrary" within the meaning of Section 223-a of the New York Real Property Law.

22. **Prime Landlord's Consent.**

In accordance with the Prime Lease, this Sublease is subject to the Prime Landlord's consent. If Prime Landlord's written consent is not obtained within forty-five (45) days following the date of this Sublease, either party may terminate this Sublease within ten (10) days thereafter by giving written notice to the other party.

23. **Miscellaneous.**

(a) The terms, covenants, provisions and conditions contained in this Sublease shall bind and inure to the benefit of the parties and their permitted successors and assigns.

(b) Captions are inserted only as a matter of convenience and reference and in no way define, limit, construe or describe the scope of this Sublease or the meaning or intent of any provision thereof.

(c) This Sublease shall be governed by the laws of the State of New York without giving effect to its principles of conflicts of laws.

(d) This Sublease may be executed in one or more counterparts, each of which shall be deemed an original. Said counterparts shall constitute one and the same instrument and shall be binding upon each of the undersigned as fully and completely as if all had executed the same instrument.

24. **Entire Agreement; Amendment.** This Sublease contains the entire agreement between the parties and all prior negotiations and agreements are merged into this Sublease. This Sublease may not be amended, changed or modified, in whole or in part, nor any of its provisions waived, except by a written instrument which (i) expressly refers to this Sublease, (ii) is executed by the party against whom enforcement of the change, modification or waiver is sought and (iii) is permissible under the Prime Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Sublease Agreement as of the date and year first above mentioned.

Sublandlord:

By: _____
Name: _____
Title: _____

Subtenant:

By: _____
Name: _____
Title: _____

DRAFT

On the _____ day of _____, in the year 2015, before me, the undersigned, a Notary Public in and for said state, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies) and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

[illegible]

On the _____ day of _____, in the year 2015, before me, the undersigned, a Notary Public in and for said state, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies) and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

9

EXHIBIT A

(Floor Plan)

DRAFT

EXHIBIT B

(Prime Lease)

DRAFT

**TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY
APPLICATION FOR FINANCIAL ASSISTANCE**

DATE: May ____, 2013

APPLICATION OF: Grucci Properties East, LLC
Company Name / Ownership of Proposed Project

ADDRESS: 20 Pinehurst Drive
Bellport, New York 11749

Type of Application: ☐ Tax-Exempt Bond ☐ Taxable Bond ☒ Lease
☐ Refunding Bond

Please respond to all items either by filling in blanks, by attachment (by marking space "see attachment number 1", etc.) or by N.A., where not applicable. Application must be filed in ten copies. A non-refundable application fee is required at the time of submission of this application to the Agency. The non-refundable application fee is \$2,000 for applications under \$5 million and \$4,000 for applications of \$5 million or more.

Transaction Counsel to the Agency may require a retainer which will be applied to fees incurred and actual out-of-pocket disbursements made during the inducement and negotiation processes, and will be reflected on their final statement at closing.

Information provided herein will not be made public by the Agency prior to the passage of an official Inducement Resolution, but may be subject to disclosure under the New York State Freedom of Information Law.

Prior to submitting a completed final application, please arrange to meet with the Agency's staff to review your draft application. Incomplete applications will not be considered. The Board reserves the right to require that the applicant pay for the preparation of a Cost Benefit Analysis, and the right to approve the company completing the analysis.

PLEASE NOTE: It is the policy of the Brookhaven IDA to encourage the use of local labor and the payment of the area standard wage during construction on the project.

Please write or call:
Town of Brookhaven Industrial Development Agency
c/o Town of Brookhaven Division of Economic Development

One Independence Hill
Farmingville, New York 11738

(631) 451-6563

I. Company Data

A. COMPANY (APPLICANT FOR ASSISTANCE)

Company Name: Grucci Properties East, LLC
Address: 20 Pinehurst Drive
Bellport, New York 11749
Contact: Felix J. Grucci Title: _____
Phone Number: _____ E-mail: _____
Federal Employer ID Number: _____

B. BUSINESS TYPE:

Sole Proprietorship ☐ Partnership ☐ Privately Held ☒
Public Corporation ☐ Listed on _____ Exchange
State of Incorporation _____

C. ANY RELATED COMPANY PROPOSED TO BE A USER OF THE FACILITY:

NAME	RELATIONSHIP
<u>Fireworks by Grucci</u>	<u>Affiliate</u>
<u>Pyrotechnique by Grucci</u>	<u>Affiliate</u>

D. COMPANY COUNSEL:

BOND COUNSEL

Firm Name: Ruskin Moscou Faltischek, P.C.
Address: 1425 RXR Plaza, East Tower, 15th Floor
Unlondale, New York 11556
Individual Attorney: David Leno, Esq. Phone: _____

E. PRINCIPAL STOCKHOLDERS OR PARTNERS, IF ANY (5% OR MORE EQUITY)

NAME	PERCENT OWNED
<u>Felix J. Grucci</u>	<u>100%</u>
_____	_____
_____	_____

F. Has the company ever filed for bankruptcy?

NO

G. Have any of the owners / top executives ever been convicted of a felony?

NO

If yes, please explain:

H. Has the company ever been convicted of a felony?

NO

If yes, please explain:

I. If any of the above persons (see "G" above), or a group of them, owns more than 50% interest in the company, list all other organizations which are related to the company by virtue of such persons having more than a 50% interest in such organizations.

NO

J. Is the company related to any other organization by reason of more than a 50% ownership? If so, indicate name of related organization and relationship:

NO

K. List parent corporation, sister corporations and subsidiaries:

NONE

- L. Has the company (or any related corporation or person) been involved in or benefited by any prior industrial development financing in the municipality in which this project is located, whether by this agency or another issuer? (Municipality herein means city, town or village, or if the project is not in an incorporated city, town or village, the unincorporated areas of the county in which it is located.) If so, explain in full:

NO

- M. Has the company (or any related corporation or person) made a public offering or private placement of its stock within the last year? If so, please provide offering statement used.

NO

- N. List major bank references of the company:

Bridghampton National Bank, 898 Veterans Memorial Highway, Suite 560, Hauppauge, NY 11788

O. OPERATION AT CURRENT LOCATION:

1. Employment: N/A 2. Payroll N/A
3. Type of operation (manufacturing, wholesale, distribution, retail, etc.) and products and/or services:

N/A

4. Size of existing facility acreage: N/A

5. Number of buildings and square feet: N/A

6. North American Industry Classification System (NAICS) N/A

II. PROPOSED PROJECT DATA

- A. Location of project: (include as an attachment a map showing the location)

Address: 20 Pinehurst Drive

Bellport, New York 11749

Suffolk County Tax Map: District 0200 Section 813 Block 01.00 Lot 008.026

- B. Project Site: (Include as an attachment copies of survey, preliminary site plan, architectural rendering of the facility)

If acquiring land, please note that Federal law prohibits the use of 25% or more of tax-exempt IDB proceeds for the purchase of land. If acquiring existing buildings, please note that Federal law prohibits the acquisition of existing buildings with tax-exempt IDB proceeds unless the rehabilitation expenses of the building are equal to or greater than 15% of the portion of the cost of acquiring the building that is financed with tax-exempt IDB proceeds. Rehabilitation does not include any amount expended on new construction (additions or expansions).

1. Acreage: 1.76 acres

2. Buildings:

A) Existing number and square feet of each building:

Approximately 19,000 square feet

B) Does the project consist of additions and/or renovations to existing buildings? If yes, indicate the nature of expansion or renovation:

Approximately \$170,000.00

C) New Construction – number and square feet of each building:

N/A

D) Builder or contractor and address: TBD.

E) Architect name and address: TBD

3. Indicate present use of site: Office and Warehouse

4. Indicate relationship of applicant to present user of site:

Contract vendee of present user

C. Proposed project ownership (company or realty partnership):

Company owned project

D. What will the building or buildings to be acquired, constructed or expanded be used for by the company? (Include a description of products to be manufactured, assembled, or processed, and services to be rendered):

Office and warehouse use

E. If any space in the project is to be leased to third parties, indicate the total square footage of the project to be leased to each tenant, and the proposed use by each tenant:

JVC/Broadcasting 10 year lease approximately 7,000 square feet

F. List principal items or categories of equipment to be acquired as part of this project:

All furniture, fixtures and equipment for the project - Quotes are in process

G. Has construction work on this project begun? If yes, complete the following:

(a.) SITE CLEARANCE:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	% COMPLETE
(b.) FOUNDATION:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	% COMPLETE
(c.) FOOTINGS:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	% COMPLETE
(d.) STEEL:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	% COMPLETE
(e.) MASONRY:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	% COMPLETE
(f.) OTHER:			

H. Existing facilities within New York State:

1) Are there other facilities owned, leased, or used by the company (or a related company or person) within the state? If so, describe whether owned, leased, or other terms of use:

NO

- 2) If there are other facilities within the state, is it expected that any of these facilities will close or be subject to reduced activity?

YES ☐ NO ☒

- 3) If you answered yes to question 2, above, please indicate whether the project is reasonably necessary for the company to maintain its competitive position in the industry. Please explain in detail:

- 4) Has the company thought about moving to another state? If so, please explain:

Yes. Cost of real property taxes and sales taxes made consideration of a potential move to Virginia or upstate New York

- 5) Will the project meet zoning requirements at the proposed location?

YES ☒ NO ☐

- 6) If a change of zoning is required, please provide the details/status of the change of zone request.

- I. Does the company, or any related corporation or person, have a lease on the project site?

YES ☐ NO ☒

- J. Does the company now own the project site?

YES ☐ NO ☒

1. If yes, indicate:

A) Date of purchase: N/A

B) Purchase price: N/A

C) Balance of existing mortgage: N/A

D) Holder of mortgage: N/A

E) Special conditions: N/A

2. If no, indicate:

A) Present owner of site: Crossvets Realty, LLC

B) Does the company or any related person or corporation have an option or a contract to purchase the site and/or any buildings on the site?

YES ☒

NO ☐

If yes, indicate:

1) Date signed: April 18, 2013

2) Purchase price: \$2,100,000.00

3) Settlement date: On or about July 1, 2013

4) Please attach a copy of option or contract.

K. Is there a relationship legally or by virtue of common control or ownership between the company (and/or its stockholders) and the seller of the project (and/or its shareholders)? If yes, please describe this relationship:

NO

L. How much equity do you have in this project?

TBD

III. PROJECT COSTS

A. Give an accurate estimate of cost of all items:

	AMOUNT
LAND } together	\$ <u>2,100,000.00</u>
BUILDING }	\$ <u></u>
SITE WORK	\$ <u>Approximately \$170,000.00</u>
LEGAL FEES	\$ <u>15,000.00</u>
ENGINEERING FEES	\$ <u>5,000.00</u>

LEGAL & FINANCIAL CHARGES	\$ 0
EQUIPMENT	\$ Approximately \$15,000.00
RECORDING FEES	\$ Approximately \$16,800.00
OTHER (SPECIFY)	\$ TBD
TOTAL	\$ 2,321,800.00

B. METHOD OF FINANCING COSTS	Amount	Term
1. Tax-exempt IDB financing:	\$ N/A	_____ years
2. Taxable IDB financing:	\$ _____	_____ years
3. SBA (504) or other governmental financing:	\$ _____	_____ years
4. Other loans:	\$ _____	_____ years
5. Company's equity contribution:	\$ _____	

Total Project Costs \$ _____

C. Have any of the above costs been paid or incurred (including contracts of sale or purchase orders) as of the date of this application?

YES ☒ NO ☐ If yes, give particulars on a separate sheet.

D. Are costs of working capital, moving expenses, work in progress, or stock in trade included in the proposed uses of bond proceeds? Give details:

NO

E. Will any of the funds borrowed through the Agency be used to repay or refinance an existing mortgage or outstanding loan? Give details:

NO

F. What portion, if any, of the cost of the project is to be financed from funds of the company (other than from the proposed bond issue)? Give details:

Approximately \$500,000.00

G. Has the company made any arrangements for the marketing or the purchase of the bond or bonds? If so, indicate with whom:

NO

IV. MEASURE OF GROWTH AND BENEFITS

- A. If the company presently operates in the Town of Brookhaven, give current employment and payroll. Also give reasonable estimates of employment and payroll directly attributable to the facility to be built in the Town of Brookhaven.

CURRENT EMPLOYMENT FIGURES	UNDER \$30,000	\$30,000 - \$50,000	\$50,000 - \$75,000	OVER \$75,000
Number of Full-Time Employees (FTE) earning:	7	5	2	8
Number of Part-Time Employees (FTE) earning:	10			

TOTAL PAYROLL FOR FULL-TIME EMPLOYEES	\$ 1,153,000
TOTAL PAYROLL FOR PART-TIME EMPLOYEES	\$ 36,000
TOTAL PAYROLL FOR ALL EMPLOYEES	\$ 1,189,000

PROJECTED EMPLOYMENT FIGURES - YEAR ONE	UNDER \$30,000	\$30,000 - \$50,000	\$50,000 - \$75,000	OVER \$75,000
Number of Full-Time Employees (FTE) earning:	7	6	3	5
Number of Part-Time Employees (FTE) earning:	10			

TOTAL PAYROLL FOR FULL-TIME EMPLOYEES	\$ 1,155,000
TOTAL PAYROLL FOR PART-TIME EMPLOYEES	\$ 38,000
TOTAL PAYROLL FOR ALL EMPLOYEES	\$ 1,193,000

PROJECTED EMPLOYMENT FIGURES - YEAR TWO	UNDER \$30,000	\$30,000 - \$50,000	\$50,000 - \$75,000	OVER \$75,000
Number of Full-Time Employees (FTE) earning:	7	6	3	6
Number of Part-Time Employees (FTE) earning:	10			

TOTAL PAYROLL FOR FULL-TIME EMPLOYEES	\$ 1,201,000
TOTAL PAYROLL FOR PART-TIME EMPLOYEES	\$ 40,000
TOTAL PAYROLL FOR ALL EMPLOYEES	\$ 1,241,000

The Board reserves the right to visit the facility to confirm that job creation numbers are being met.

V. PROJECT CONSTRUCTION SCHEDULE

- A. What is the proposed date for commencement of construction or acquisition of the project?

Approximately June, 2013

- B. Give an accurate estimate of the time schedule to complete the project and when the first use of the project is expected to occur:

Approximately July, 2013

- C. At what time or times and in what amount or amounts is it estimated that funds will be required?

At closing June, 2013

VI. SUBMIT THE FOLLOWING INFORMATION OF THE COMPANY

- A. Financial statements for the last two fiscal years (unless included in the company's annual report).
- B. What, if any, will be the expected increase in the dollar amount of sales? \$ _____
- C. Company's annual reports (or 10-K's if publicly held) for the two most recent fiscal years.
- D. Quarterly reports (form 10-Q's) and current reports (form 8-K's) since the most recent annual report, if any.
- E. In addition, please attach the financial information described in items A, B, and C of any expected guarantor of the proposed bond issue.
- F. Completed Long Environmental Assessment Form.
- G. Most recent quarterly filing of NYS Department of Labor form 45, as well as the most recent fourth quarter filing. Please remove the employee Social Security numbers and note the full-time equivalency for part-time employees.

**Town of Brookhaven Industrial Development Agency
Payment in Lieu of Tax (PILOT) Policy**

An annual fee of \$1,000 will be due to the Agency in addition to the PILOT payment to cover ongoing costs incurred by the Agency on behalf of the project.

1. The Town of Brookhaven Industrial Development Agency (IDA) may grant, or be utilized to obtain a partial or full real property tax abatement for a determined period which can be as long as ten years. To be eligible for this abatement there would be a requirement of new construction, or renovation, and a transfer of title of the real property to the Town of Brookhaven IDA.
2. The Chief Executive Officer (CEO) or their designee shall consult with the Town Assessor to ascertain the amounts due pursuant to each PILOT Agreement. Thereafter, the PILOT payment for each project shall be billed to the current lessees. The lessees can pay the PILOT payment in full by January 31st of each year, or in two equal payments due January 31st and May 31st of each year of the PILOT Agreement. The CEO or their designee shall send all PILOT invoices to the lessees on a timely basis.
3. The Town of Brookhaven IDA shall establish a separate, interest bearing bank account for receipt and deposit of all PILOT payments. The CEO or their designee shall be responsible for depositing and maintaining said funds with input from the Chief Financial Officer (CFO).
4. The CEO or their designee shall remit PILOT payments and penalties if any, to the respective taxing authorities in the proportionate amounts due to said authorities. These remittances shall be made within thirty (30) days of receipt of the payments to the Agency.
5. If first-half PILOT payments are not received on a timely basis (as outlined in paragraph 2 hereof), the following interest and penalties shall accrue:

(i)	2/1 to 2/28	1% of the amount due
(ii)	3/1 to 3/31	2% of the amount due
(iii)	4/1 to 4/30	3% of the amount due
(iv)	5/1 to 5/31	4% of the amount due
(v)	6/1 to 6/30	5% of the amount due
(vi)	7/1 to 7/31	5% of the amount due
(vii)	8/1 to 8/31	5% of the amount due
(viii)	9/1 to 9/30	5% of the amount due
(ix)	10/1 to 10/31	5% of the amount due
(x)	11/1 to 11/30	5% of the amount due

PILOT payments paid after May 31st shall pay interest and penalties as follows:

(i)	6/1 to 6/30	5% interest and 5% penalty
(ii)	7/1 to 7/31	6% interest and 5% penalty
(iii)	8/1 to 8/31	7% interest and 5% penalty
(iv)	9/1 to 9/30	8% interest and 5% penalty
(v)	10/1 to 10/31	9% interest and 5% penalty
(vi)	11/1 to 11/30	10% interest and 5% penalty

For PILOT payments past due beyond one year, additional interest and penalties will accrue.

6. If a PILOT payment is not received by January 31st of any year or May 31st of the second half of the year the lessee shall be in default pursuant to the PILOT Agreement. The Agency may

give the lessee notice of said default. If the payment is not received within sixty (60) days of when due, the CEO shall notify the Board, and thereafter take action as directed by the Board.

7. The CEO shall maintain records of the PILOT accounts at the Agency office.
8. Nothing herein shall be interpreted to require the Agency to collect or disburse PILOT payments for any projects which are not Agency projects.
9. Should the Applicant fail to reach employment levels as outlined in their application to the Agency, the Board reserves the right to reduce or suspend the PILOT Agreement, declare a default under the Lease or the Installment Sale Agreement, and/or convey the title back to the applicant.
10. This policy has been adopted by the IDA Board upon recommendation of the Governance Committee and may only be amended in the same manner.

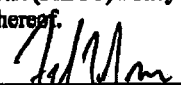
CERTIFICATION

FELIX J. GRUCCI (name of Chief Executive Officer of company submitting application) deposes and says that he or she is the MANAGING MEMBER (title) of GRUCCI PROPERTIES EAST, LLC, the corporation (company name) named in the attached application; that he or she has read the foregoing application and knows the contents thereof; that the same is true to his or her knowledge.

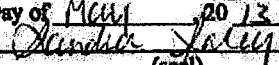
Deponent further says that the reason this verification is being made by the Deponent and not by GRUCCI PROPERTIES EAST, LLC (company name) is because the said company is a corporation. The grounds of Deponent's belief relative to all matters in the said application which are not stated upon his or her own personal knowledge, are investigations which Deponent has caused to be made concerning the subject matter of this application as well as information acquired by Deponent in the course of his or her duties as an officer of and from books and papers of said corporation.

As an officer of said corporation (hereinafter referred to as the "Applicant"), Deponent acknowledges and agrees that Applicant shall be and is responsible for all costs incurred by the Town of Brookhaven Industrial Development Agency (hereinafter referred to as the "Agency") acting on behalf of the Applicant in connection with this application and all matters relating to the issuance of bonds. If, for any reason whatsoever, the Applicant fails to conclude or consummate necessary negotiations or fails to act within a reasonable or specified period of time to take reasonable, proper, or requested action or withdraws, abandons, cancels or neglects the application or if the Applicant is unable to find buyers willing to purchase the total bond issue required, then upon presentation of invoice, Applicant shall pay to the Agency, its agents or assigns, all actual costs incurred with respect to the application, up to that date and time, including fees to bond counsel for the Agency and fees of general counsel for the Agency. Upon successful conclusion and sale of the required bond issue, the Applicant shall pay to the Agency an administrative fee set by the Agency not to exceed an amount equal to 1% of the total project cost financed by the bond issue, which amount is payable at closing. The Agency's bond counsel's fees and the administrative fee may be considered as a cost of the project and included as part of any resultant bond issue.

Deponent further certifies that he or she has read the Payment in Lieu of Tax (PILOT) Policy of the Town of Brookhaven Industrial Development Agency and will agree to the terms thereof.



Chief Executive Officer of Company
Felix J. Grucci (Phil)

Sworn to me before this 7th
Day of May, 20 13

(seal)

SANDRA PAYNE
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01FA6144782
QUALIFIED IN SUFFOLK COUNTY
COMMISSION EXPIRES APRIL 24, 20 14