

Date: September 23, 2026

At a meeting of the Town of Brookhaven Industrial Development Agency (the “**Agency**”), held on the 23rd day of September, 2026 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, Vice Chair
Mitchell H. Pally, Treasurer
Ann-Marie Scheidt, Secretary (via Zoom)
Frank C. Trotta, Asst. Treasurer
John Rose, Asst. Secretary

Recused:

Excused: Vincent Bonacasa, Member

Also Present: Lisa MG Mulligan, Chief Executive Officer
Lori LaPonte, Chief Financial Officer
Jocelyn Linse, Executive Assistant
Annette Eaderesto, Esq., Counsel to the Agency
Barry Carrigan, Esq., Transaction Counsel
Howard Gross, Esq., Transaction Counsel (via Zoom)
Andrew Komaromi, 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 an extension of PILOT benefits of the Agency’s Rail Realty LLC 2015 Facility and the execution of documents with respect thereto

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

Voting Aye

Braun
Callahan
Pally
Scheidt
Trotta
Rose

Voting Nay

RESOLUTION OF THE TOWN OF BROOKHAVEN
INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE
EXTENSION OF PAYMENT-IN-LIEU-OF-TAX BENEFITS WITH
RESPECT TO THE RAIL REALTY LLC 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, the Agency has previously provided its assistance to Rail Realty LLC, a limited liability company organized and existing under the laws of the State of New York (“**Company**”), to finance certain costs of an industrial development facility which will occur in two phases over the next three to five years as follows: (A) Phase I will consist of (i) the acquisition of five (5) parcels of land with seven (7) tax lots aggregating approximately 1.643 acres and having the following addresses: 14 and 18 Sheep Pasture Road, 103 Texaco Avenue, 28 Linden Place and a vacant parcel of land located at the corner of Texaco Avenue and Linden Place, all located in the Village of Port Jefferson, Town of Brookhaven, Suffolk County, New York (further identified as Tax Map Nos. Section 021.00 Block 04.00 Lots 11.000, 12.000, 19.100, 20.000, 22.100, 22.200 and 30.000) (collectively, the “**Land**”), together with existing structures located thereon, (ii) the demolition of existing structures located on the Land, and (iii) the construction and equipping of an approximately 54,829 square foot 3-story building over an underground parking garage, containing approximately 38 multi-family apartment units and known as Rail Realty Apartment Complex (collectively, the “**Phase I Facility**”), (B) Phase II will consist of the construction and equipping of an approximately 51,687 square foot 3-story building over an underground parking garage, containing approximately 36 multi-family apartment units (the “**Phase II Facility**”; and, together with the Phase I Facility, the “**Facility**”), all leased by the Agency to the Company and used by the Company as a market-rate residential apartment complex for residents of the Town of Brookhaven (collectively, the “**Project**”); and

WHEREAS, the Company is leasing the Land and the Improvements to the Agency pursuant to a certain Company Lease Agreement, dated as of February 1, 2015 (the “**Original Company Lease**”), by and between the Company and the Agency; and

WHEREAS, the Agency is leasing the Facility to the Company pursuant to a certain Lease Agreement, dated as of February 1, 2015 (the “**Original Lease Agreement**”), by and between the Agency, as lessor and the Company, as lessee; and

WHEREAS, the Agency and the Company previously entered into a Payment-In-Lieu-Of-Tax Agreement, dated as of February 1, 2015 (the “**Original PILOT Agreement**”), by and between the Company and the Agency, whereby the Company agreed to make certain payments-in-lieu-of-taxes to the Taxing Authorities (as defined therein); and

WHEREAS, as an inducement for the Agency to enter into and perform the transactions contemplated by the Lease Agreement, the Agency required the Company to enter into an Environmental Compliance and Indemnification Agreement, dated as of February 1, 2015 (the “**Original Environmental Compliance and Indemnification Agreement**”), by and between the Company and the Agency; and

WHEREAS, the Company entered into a Recapture Agreement, dated as of February 1, 2015 (the “**Original Recapture Agreement**”), from the Company to the Agency in order to reflect the repayment of certain obligations of the Company upon the occurrence of a Recapture Event (as defined therein); and

WHEREAS, the Company has submitted a request to the Agency for financial assistance including an extension of the abatement of real property taxes on the Facility for a term of up to seven (7) additional years (the “**PILOT Extension**”), in connection with the Facility and the Agency will require that 20% of the units are set aside for rent to residents whose income is at or below 80% of the Area Median Income (the “**Set-Aside**”); and

WHEREAS, the Agency will enter into an Amendment and Modification Agreement, to be dated a date to be determined (the “**Amendment and Modification Agreement**”), between the Agency and the Company with respect to the PILOT Extension; and

WHEREAS, the Original Lease Agreement, Original PILOT Agreement, the Original Recapture Agreement and the Original Environmental Compliance and Indemnification Agreement, shall be amended and restated pursuant to the Amendment and Modification Agreement; and

WHEREAS, the Agency and the Company will execute and deliver such other documents as may be required to effectuate the PILOT Extension (“**Amendment Documents**”); 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 an amended and extended abatement of real property taxes on the Facility as shown on Exhibit C annexed hereto, all consistent with the policies of the Agency; 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, in compliance with Section 859-a of the Act, a public hearing was held on September 21, 2026, after public notice thereof was published on September 9, 2026, to hear all persons interested in the proposed financial assistance by the Agency to the Company in connection with the Facility and the form of the Notice of Public Hearing and Minutes of the Public Hearing are attached as Exhibits A & B hereto; 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 Company 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 continued leasing and subleasing of the Facility.

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 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 the Town of Brookhaven, Suffolk County and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(d) The proposed financial assistance with respect to the Amendment Documents is reasonably necessary to induce the Company to maintain and expand its business operations in the State of New York; and

(e) Based upon representations of the Company and counsel to the Company, 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) It is desirable and in the public interest for the Agency to grant the PILOT Extension to the Company; and

(g) The Amendment and Modification Agreement (or amended and restated documents, as applicable) will be an effective instrument whereby the Agency and the Company agree to (i) extend the Lease Term of the Lease Agreement for an additional term of up to seven (7) years beyond the existing expiration date and the Agency will continue to lease the Facility to the Company, amend and restate the PILOT schedule to reflect the undertaking of the PILOT Extension, and add the Set-Aside covenants; and (ii) provide for certain updates required by the New York General Municipal Law (the “GML”) Section 862; and

(h) The Amendment Documents will be effective instruments whereby the Agency and the Company effectuate the financial assistance contemplated herein.

Section 2. The Agency has assessed all material information included in connection with the Company'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 Company.

Section 3. In consequence of the foregoing, the Agency hereby determines to: (i) grant an extension of the Lease Agreement for an additional term of up to seven (7) years beyond its existing expiration date for the Facility pursuant to the Amendment and Modification Agreement, (ii) amend the Company Lease pursuant to the Amendment and Modification Agreement to reflect extending the Lease Term (as defined in the Lease Agreement) for a term of up to seven (7) years beyond its existing expiration date; (iii) amend the Lease Agreement including the PILOT Schedule and the Set-Aside requirements pursuant to the Amendment and Modification Agreement to reflect the PILOT Extension, including extending the Lease Term as defined in the Lease Agreement) for a term of up to seven (7) years beyond its existing expiration date, and (iv) execute, deliver and perform the Amendment and Modification Agreement.

Section 4. The Agency hereby authorizes and approves the PILOT Extension and the Set-Aside requirement.

Section 5. The form and substance of (i) the Amendment and Modification Agreement, and (ii) the Amendment Documents (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 6. Subject to the provisions of this resolution and the Lease Agreement, the Agency hereby authorizes and approves continued economic benefits to be granted to the Company in connection with the Facility in the form of continued, amended, and extended abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit C hereof), consistent with the policies of the Agency. 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 attached hereto as Exhibit D.

Section 7. The Company is hereby notified that the PILOT Extension benefits provided pursuant to the Act are subject to termination and recapture of benefits pursuant to Sections 859-a and 875 of the Act and the Lease Agreement.

Section 8.

- (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 Amendment and Modification Agreement and the Amendment Documents, 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 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, Vice Chairman, Chief Executive Officer, or any member of the Agency shall constitute conclusive evidence of such approval.

- (b) The Chairman, Vice 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, as amended).

Section 9. 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 10. Any expenses incurred by the Agency with respect to the Facility shall be paid by the Company. The Company agree 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 11. 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 23rd day of September, 2026, 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 23rd day of September, 2026.

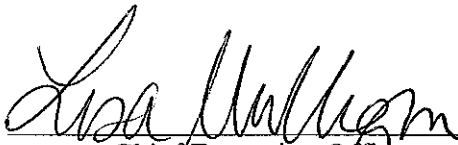
By: 
Chief Executive Officer

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Title 1 of 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 21st day of September, 2026, at 11:30 a.m., local time, at the Port Jefferson Village Hall, 121 West Broadway, First Floor Conference Room, Port Jefferson, New York 11777, in connection with the following matters:

The Agency previously provided its assistance to Rail Realty LLC, a limited liability company organized and existing under the laws of the State of New York (“**Company**”), to finance certain costs of an industrial development facility as follows: (i) the acquisition of land located at 23-25 Texaco Avenue, located in the Village of Port Jefferson, Town of Brookhaven, Suffolk County, New York (further identified as Tax Map No. Section 021.00 Block 04.00 Lot 22.006) (the “**Land**”), together with existing structures located thereon, (ii) the demolition of existing structures located on the Land, and (iii) the construction and equipping of an approximately 106,516 square foot 3-story building over an underground parking garage, containing approximately 74 multi-family apartment units and known as Rail Realty Apartment Complex (collectively, the “**Facility**”), all leased by the Agency to the Company and used by the Company as a market-rate residential apartment complex for residents of the Town of Brookhaven (the “**Project**”).

The Company has submitted a request to the Agency for additional financial assistance including an extension of the abatement of real property taxes on the Facility for a term of up to seven (7) additional years (the “**PILOT Extension**”), in connection with the Facility. The Facility will continue to be owned and operated by the Company.

The Agency has previously acquired a leasehold interest in the Facility and will continue to lease the Facility to the Company. The Agency contemplates that it will continue to provide financial assistance to the Company in the form of a modification and extension of current abatements of real property taxes, consistent with the policies 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 grant of financial assistance to the Company by the Agency 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 request for financial assistance filed by the Company with the Agency and an analysis of the costs and benefits of the proposed Facility.

Dated: September 9, 2026

TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY

By: Lisa MG Mulligan
Title: Chief Executive Officer

EXHIBIT B

MINUTES OF PUBLIC HEARING HELD ON
SEPTEMBER 21, 2026 AT 11:30 A.M.

TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY
(RAIL REALTY LLC FACILITY)

1. Lisa MG Mulligan, Chief Executive Officer of the Town of Brookhaven Industrial Development Agency (the “**Agency**”) called the hearing to order.
2. Lisa MG Mulligan then appointed herself the hearing officer of the Agency, to record the minutes of the hearing.
3. 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:

The Agency previously provided its assistance to Rail Realty LLC, a limited liability company organized and existing under the laws of the State of New York (“**Company**”), to finance certain costs of an industrial development facility as follows: (i) the acquisition of land located at 23-25 Texaco Avenue, located in the Village of Port Jefferson, Town of Brookhaven, Suffolk County, New York (further identified as Tax Map No. Section 021.00 Block 04.00 Lot 22.006) (the “**Land**”), together with existing structures located thereon, (ii) the demolition of existing structures located on the Land, and (iii) the construction and equipping of an approximately 106,516 square foot 3-story building over an underground parking garage, containing approximately 74 multi-family apartment units and known as Rail Realty Apartment Complex (collectively, the “**Facility**”), all leased by the Agency to the Company and used by the Company as a market-rate residential apartment complex for residents of the Town of Brookhaven (the “**Project**”).

The Company has submitted a request to the Agency for additional financial assistance including an extension of the abatement of real property taxes on the Facility for a term of up to seven (7) additional years (the “**PILOT Extension**”), in connection with the Facility. The Facility will continue to be owned and operated by the Company.

The Agency has previously acquired a leasehold interest in the Facility and will continue to lease the Facility to the Company. The Agency contemplates that it will continue to provide financial assistance to the Company in the form of a modification and extension of current abatements of real property taxes, consistent with the policies of the Agency.

4. 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

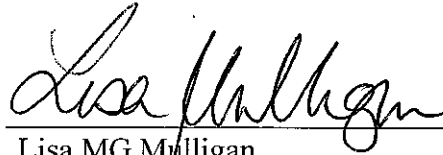
5. The hearing officer then asked if there were any further comments, and, there being none, the hearing was closed at 12:00 p.m.

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 September 21, 2026 at 11:30 a.m., local time, 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 September 21, 2026.

A handwritten signature in black ink, appearing to read "Lisa MG Mulligan", is written over a horizontal line.

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), Comsewogue School District, Suffolk County and Appropriate Special Districts

Year	PILOT
2026/27	\$ 222,898
2027/28	\$ 265,097
2028/29	\$ 309,080
2029/30	\$ 354,717
2030/31	\$ 402,056
2031/32	\$ 451,146
2032/33	\$ 502,039
PROPOSED PILOT BENEFITS ARE FOR DISCUSSION PURPOSES ONLY AND HAVE NOT BEEN APPROVED BY THE AGENCY.	

EXHIBIT D

COST BENEFIT ANALYSIS

Town of Brookhaven Industrial Development Agency

MRB Cost Benefit Calculator

Date September 11, 2026
Project Title Rail Realty, LLC
Project Location 23-25 Texaco Ave Port Jefferson



Cost-Benefit Analysis Tool powered by MRB Group

Economic Impacts

Summary of Economic Impacts over the Life of the PILOT

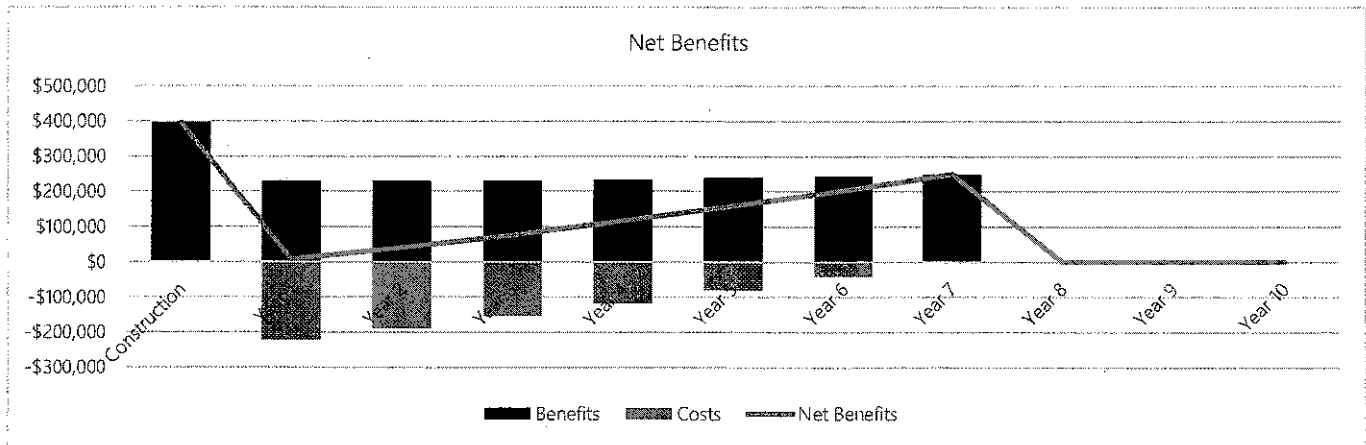
Construction Project Costs

\$620,000

Temporary (Construction)			
	Direct	Indirect	Total
Jobs	4	2	5
Earnings	\$239,210	\$134,870	\$374,080
Local Spend	\$620,000	\$449,391	\$1,069,391

Ongoing (Operations)			
Aggregate over life of the PILOT			
	Direct	Indirect	Total
Jobs	2	1	3
Earnings	\$1,001,362	\$561,913	\$1,563,275

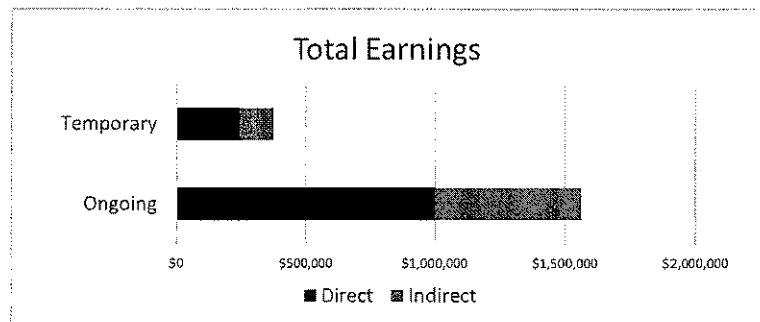
Figure 1



Net Benefits chart will always display construction through year 10, irrespective of the length of the PILOT.

Figure 2

Figure 3



Fiscal Impacts



MRB
Group

Cost-Benefit Analysis Tool powered by MRB Group

Estimated Costs of Exemptions

	Nominal Value	Discounted Value*
Property Tax Exemption	\$807,141	\$765,283
Sales Tax Exemption	\$0	\$0
Local Sales Tax Exemption	\$0	\$0
State Sales Tax Exemption	\$0	\$0
Mortgage Recording Tax Exemption	\$0	\$0
Local Mortgage Recording Tax Exemption	\$0	\$0
State Mortgage Recording Tax Exemption	\$0	\$0
Total Costs	\$807,141	\$765,283

State and Local Benefits

	Nominal Value	Discounted Value*
Local Benefits	\$1,146,318	\$1,067,644
To Private Individuals	\$1,937,354	\$1,817,816
Temporary Payroll	\$374,080	\$374,080
Ongoing Payroll	\$1,563,275	\$1,443,736
Other Payments to Private Individuals	\$0	\$0
To the Public	(\$791,037)	(\$750,172)
Increase in Property Tax Revenue	(\$807,141)	(\$765,283)
Temporary Jobs - Sales Tax Revenue	\$3,110	\$3,110
Ongoing Jobs - Sales Tax Revenue	\$12,995	\$12,001
Other Local Municipal Revenue	\$0	\$0
State Benefits	\$100,742	\$94,526
To the Public	\$100,742	\$94,526
Temporary Income Tax Revenue	\$16,834	\$16,834
Ongoing Income Tax Revenue	\$70,347	\$64,968
Temporary Jobs - Sales Tax Revenue	\$2,619	\$2,619
Ongoing Jobs - Sales Tax Revenue	\$10,943	\$10,106
Total Benefits to State & Region	\$1,247,060	\$1,162,171

Benefit to Cost Ratio

	Benefit*	Cost*	Ratio
Local	\$1,067,644	\$765,283	1:1
State	\$94,526	\$0	1
Grand Total	\$1,162,171	\$765,283	2:1

*Discounted at the public sector discount rate of: 2%

Additional Comments from IDA

Rail Realty, LLC, an existing 74-unit market-rate residential housing facility, requested an extension of their PILOT. The project will set aside 20% of the residential units for rent to residents whose income is at or below 80% of the Area Median Income. Rail Realty, LLC will also complete approximately \$600,000 of investment into the facility and the surrounding area. As per Brookhaven IDA's Uniform Project Evaluation Criteria Policy, the criteria met for this project include, but are not limited to, that it is located in a town center and that it is located in an area with inadequate affordable housing supplies.

Does the IDA believe that the project can be accomplished in a timely fashion? Yes
Does this project provide onsite childcare facilities? No

Date: February 18, 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 18th day of February, 2015, the following members of the Agency were:

Present: Frederick C. Braun, III, Ann-Marie Scheidt, Michael Kelly & John O'Loughlin

Recused:

Absent: Felix J. Grucci, Jr., Martin Callahan & Scott Middleton

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 (Rail Realty LLC 2015 Facility) and the leasing of the facility to Rail Realty LLC.

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

Voting Aye

Braun
Scheidt
Kelly
O'Loughlin

Voting Nay

RESOLUTION OF THE TOWN OF BROOKHAVEN
INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE
ACQUISITION, DEMOLITION, CONSTRUCTION AND
EQUIPPING OF A CERTAIN INDUSTRIAL DEVELOPMENT
FACILITY TO BE LEASED TO RAIL REALTY LLC, A NEW
YORK LIMITED LIABILITY COMPANY 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, Rail Realty LLC, a limited liability company organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Rail Realty LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "**Company**"), has requested the Agency's assistance to finance certain costs of an industrial development facility which will occur in two phases over the next three to five years as follows: (A) Phase I will consist of (i) the acquisition of five (5) parcels of land with seven (7) tax lots aggregating approximately 1.643 acres and having the following addresses: 14 and 18 Sheep Pasture Road, 103 Texaco Avenue, 28 Linden Place and a vacant parcel of land located at the corner of Texaco Avenue and Linden Place, all located in the Village of Port Jefferson, Town of Brookhaven, Suffolk County, New York (further identified as Tax Map Nos. Section 021.00 Block 04.00 Lots 11.000, 12.000, 19.100, 20.000, 22.100, 22.200 and 30.000) (collectively, the "**Land**"), together with existing structures located thereon, (ii) the demolition of existing structures located on the Land, and (iii) the construction and equipping of an approximately 54,829 square foot 3-story building over an underground parking garage, containing approximately 38 multi-family apartment units and known as Rail Realty Apartment Complex (collectively, the "**Phase I Facility**"), (B) Phase II will consist of the construction and equipping of an approximately 51,687 square foot 3-story building over an underground parking garage, containing approximately 36 multi-family apartment units (the "**Phase II Facility**"; and, together with the Phase I Facility, the "**Facility**"), all to be leased by the Agency to the Company and used by the Company as a market-rate residential apartment complex for residents of the Town of Brookhaven, 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, demolition, 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, demolition, 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 February 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 sublease and lease the Company Facility to the Company pursuant to a certain Lease Agreement, dated as of February 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 contemplates that it will provide financial assistance to the Company consistent with the policies of the Agency, in the form of (i) exemptions from mortgage recording taxes for one or more mortgages securing an amount presently estimated to be \$12,150,000 but not to exceed \$15,000,000 in connection with the financing of the acquisition, demolition, constructing and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, demolishing, constructing and equipping the Facility, (ii) exemptions from sales and use taxes in an amount not to exceed \$830,277 in connection with the purchase or lease of equipment, building materials, services or other personal property, and (iii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit A 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, in order to define the Company's obligations regarding payments-in-lieu-of taxes with respect to the Facility, the Agency and the Company will enter into a certain Payment-in-Lieu-of-Tax Agreement, dated as of February 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 will make payments in lieu of taxes on the Facility; and

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

WHEREAS, as security for a loan or loans (as such term is defined in the Lease Agreement), the Agency and the Company will execute and deliver to a lender or lenders not yet determined (the "**Lender**"), one or more 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 and equipping of the Facility (collectively, the "**Loan Documents**"); and

WHEREAS, the Company 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 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, renovation and equipping of the Facility and the 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

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

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

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

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

(l) The Environmental Compliance and Indemnification Agreement, dated as of February 1, 2015, or such other date as may be determined by the Chairman, the Chief Executive Officer and counsel to the Agency (the "**Environmental Compliance and Indemnification Agreement**"), from the Company to the Agency will be an effective instrument whereby the Company agrees 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

(m) 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 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 Facility to the Company pursuant to the Lease Agreement, (iv) execute, deliver and perform the Lease Agreement, (v) execute, deliver and perform the PILOT Agreement, (vi) execute, deliver and perform the Recapture Agreement, (vii) execute and deliver the Environmental Compliance and Indemnification Agreement, (viii) grant a mortgage on and security interests in and to the Facility pursuant to the Loan Documents, and (ix) execute, deliver and perform the Loan Documents to which the Agency is a party.

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 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. The Agency is hereby further authorized to execute and deliver the Loan Documents in connection with the financing of the costs of acquiring, renovating and equipping the Facility and any future Loan Documents in connection with any future refinancing or permanent financing of such costs of acquiring, renovating and equipping of the Facility without the need for any further or future approvals of the Agency.

Section 5. 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 \$12,150,000 but not to

exceed \$15,000,000 in connection with the financing of the acquisition, demolition, constructing and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, demolishing, constructing and equipping the Facility, (ii) exemptions from sales and use taxes in an amount not to exceed \$830,277 in connection with the purchase or lease of equipment, building materials, services or other personal property, and (iii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit A hereof), consistent with the policies of the Agency.

Section 6. Subject to the provisions of this resolution, the Company is herewith and hereby appointed the agent of the Agency to acquire, construct 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, demolish, construct 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 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 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, demolish, 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 has received exemptions from sales and use taxes in an amount not to exceed \$830,277 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 7. The Company hereby agrees to comply with Section 875 of the Act. The Company further agrees that the exemption of sales and use tax provided pursuant to the Act and the appointment of the Company as agent 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 PILOT Agreement, the Recapture Agreement, the Environmental Compliance and Indemnification 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 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 PILOT Agreement, the Recapture Agreement, the Environmental Compliance and Indemnification 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, 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. By acceptance hereof, 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 12. This resolution shall take effect immediately.

ADOPTED: February 18, 2015

ACCEPTED: _____ 2015

RAIL REALTY LLC

By: _____
Name:
Title:

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

I, the undersigned Secretary 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 18th day of February, 2015, 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 18th day of February, 2015.

By: _____



Secretary

EXHIBIT A

Proposed PILOT Schedule

Formula for In-Lieu-of-Taxes Payment: Town of Brookhaven (including any existing incorporated village or any village which may be incorporated after the date hereof, within which the Facility is wholly or partially located), Comsewogue School District, Suffolk County and Appropriate Special Districts.

<u>Year</u>	<u>Tax Year</u>	<u>Payment</u>
	2015/2016	\$ 55,447.00
1.	2016/2017	\$ 16,530.00
2.	2017/2018	\$ 16,860.00
3.	2018/2019	\$ 17,200.00
4.	2019/2020	\$ 17,540.00
5.	2020/2021	\$ 17,890.00
6.	2021/2022	\$ 18,250.00
7.	2022/2023	\$ 18,620.00
8.	2023/2024	\$ 18,990.00
9.	2024/2025	\$ 19,370.00
10.	2025/2026	\$ 19,760.00
	and thereafter	100% of full taxes and assessments on the Facility

Date: August 17, 2016

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 18th day of February, 2015, the following members of the Agency were:

Present: Frederick C. Braun, III
Martin Callahan
Michael Kelly
Gary Pollakusky
Ann-Marie Scheidt

Recused:

Absent: Felix J. Grucci, Jr.
Scott Middleton

Also Present: Lisa M. G. Mulligan, Chief Executive 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 a proposed mortgage financing and the execution of related loan documents in connection with a certain industrial development facility more particularly described below (Rail Realty LLC 2015 Facility) and approving the execution and delivery of related documents.

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

Voting Aye

Braun
Callahan
Kelly
Pollakusky
Scheidt

Voting Nay

RESOLUTION OF THE TOWN OF BROOKHAVEN
INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING
MORTGAGE FINANCING AND THE EXECUTION AND
DELIVERY OF LOAN DOCUMENTS IN CONNECTION
THEREWITH FOR RAIL REALTY LLC 2015 FACILITY AND
APPROVING THE FORM, SUBSTANCE, EXECUTION AND
DELIVERY OF SUCH 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 the same may be 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 certain industrial development projects as authorized by the Act; and

WHEREAS, the Agency has previously provided assistance to Rail Realty LLC, a limited liability company organized and existing under the laws of the State of New York ("**Company**"), to finance certain costs of an industrial development facility which will occur in two phases over the next three to five years as follows: (A) Phase I will consist of (i) the acquisition of five (5) parcels of land with seven (7) tax lots aggregating approximately 1.643 acres and having the following addresses: 14 and 18 Sheep Pasture Road, 103 Texaco Avenue, 28 Linden Place and a vacant parcel of land located at the corner of Texaco Avenue and Linden Place, all located in the Village of Port Jefferson, Town of Brookhaven, Suffolk County, New York (further identified as Tax Map Nos. Section 021.00 Block 04.00 Lots 11.000, 12.000, 19.100, 20.000, 22.100, 22.200 and 30.000) (collectively, the "**Land**"), together with existing structures located thereon, (ii) the demolition of existing structures located on the Land, and (iii) the construction and equipping of an approximately 54,829 square foot 3-story building over an underground parking garage, containing approximately 38 multi-family apartment units and known as Rail Realty Apartment Complex (collectively, the "**Phase I Facility**"), (B) Phase II will consist of the construction and equipping of an approximately 51,687 square foot 3-story building over an underground parking garage, containing approximately 36 multi-family apartment units (the "**Phase II Facility**"; and, together with the Phase I Facility, the "**Facility**"), all leased by the Agency to the Company and used by the Company as a market-rate residential apartment complex for residents of the Town of Brookhaven; and

WHEREAS, the Company is leasing the Land and the Improvements to the Agency pursuant to a certain Company Lease Agreement, dated as of February 1, 2015 (the "**Company Lease**"), by and between the Company and the Agency; and

WHEREAS, the Agency is leasing the Facility to the Company pursuant to a certain Lease Agreement, dated as of February 1, 2015 (the "**Lease Agreement**"), by and between the Agency, as lessor and the Company, as lessee; and

WHEREAS, as security for the Loan (as such term is defined in the Lease Agreement), the Agency and the Company executed and delivered to Bridgehampton National Bank (the "**Lender**"): (i) a certain Building Loan Mortgage, Assignment of Leases

and Rents and Security Agreement, dated March 23, 2015 (the "**Building Loan Mortgage**"), from the Agency and the Company to the Lender, securing a principal amount of \$13,600,000, which Building Loan Mortgage was recorded in the Suffolk County Clerk's office, and (ii) a certain Project Loan Mortgage, Assignment of Leases and Rents and Security Agreement, dated March 23, 2015 (the "**Project Loan Mortgage**"; and., together with the Building Loan Mortgage, the "**Mortgage**"), from the Agency and the Company to the Lender, securing a principal amount of \$1,400,000, which Project Loan Mortgage was recorded in the Suffolk County Clerk's office; and

WHEREAS, the Company has notified the Agency that the completion of the Phase I Facility included many upgrades and additional amenities that were not included in the original project budget and that the same upgrades and additional amenities will also be included in the completion of the Phase II Facility; and

WHEREAS, such upgrades and additional amenities will account for an approximate 5% increase in the original budget for the completion of the Facility;

WHEREAS, due to increase of the original budget the Company has entered into negotiations with the Lender for a loan modification to permit an increase in the financing of the Facility in an amount presently expected to be \$1,500,000; and

WHEREAS, the Company has now requested that the Agency consent to enter into a an additional financing with the Lender with respect to the Facility in the aggregate principal amount presently expected to be \$1,500,000 but not to exceed \$3,000,000 (the "**2016 Loan**"); and

WHEREAS, the proceeds of the 2016 Loan will be used to reimburse the costs of the upgrades and additional amenities in the Facility; and

WHEREAS, as security for such 2016 Loan being made to the Company by the Lender, the Company has submitted a request to the Agency that it join with the Company in executing and delivering to the Lender one or more mortgages and such other loan documents, satisfactory to the Agency, upon advice of counsel, in both form and substance, as may be reasonably requested by the Lender (the "**2016 Loan Documents**"); 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 exemptions from mortgage recording taxes securing the principal amount presently estimated to be \$1,500,000 but not to exceed \$3,000,000 in connection with the financing or refinancing of the acquisition, construction, renovation and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, constructing, renovating and equipping the Facility; 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;

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transactions contemplated by the financing or refinancing of the Facility and the continued leasing and subleasing of the Facility.

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.
- (b) The Facility continues to constitute a "project" as such term is defined in the Act.
- (c) The financing or refinancing of the acquisition, construction, renovation and equipping of the Facility will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the Town of Brookhaven, Suffolk County and the State of New York and improve their standard of living and thereby serve the public purposes of the Act.
- (d) The financing or refinancing of the acquisition, construction, renovation and equipping of the Facility as contemplated in this resolution is reasonably necessary to maintain the competitive position of the Company in its industry.
- (e) Based upon representations of the Company and counsel to the Company, the Facility continues to conform with the local zoning laws and planning regulations of the Town of Brookhaven and all regional and local land use plans for the area in which the Facility is located.
- (f) It is desirable and in the public interest for the Agency to assist in the financing of the acquisition, construction, renovation and equipping of the Facility.
- (g) The 2016 Loan Documents will be effective instruments whereby the Agency and the Company agree to secure the 2016 Loan and assign to the Lender their respective rights under the Lease Agreement (except the Agency's Unassigned Rights as defined therein).

Section 2. In consequence of the foregoing, the Agency hereby determines to:

- (i) grant a mortgage on and security interest in and to the Facility pursuant to a certain mortgage and security agreement for the benefit of the Lender (the "**2016 Mortgage**"),
- (ii) execute, deliver and perform the 2016 Mortgage, and (iii) execute, deliver and perform the 2016 Loan Document to which the Agency is a party, as may be necessary or appropriate to effect the 2016 Loan or any subsequent refinancing of the 2016 Mortgage.

Section 3. Subject to the provisions of this resolution and the Lease Agreement, the Agency is hereby authorized to do all things necessary or appropriate for the execution, delivery and performance of the 2016 Loan Documents and the 2016 Mortgage, and such other related documents as may be necessary or appropriate to effect the 2016 Loan, or any subsequent refinancing of the 2016 Loan, and all acts heretofore taken by the Agency with respect to such financing or refinancing are hereby approved, ratified and confirmed. The Agency is hereby further authorized to execute and deliver any future documents in connection with any future refinancing or permanent financing of such costs of acquiring, constructing, renovating and equipping of the Facility without need for any further or future approvals of the Agency.

Section 4.

(a) Subject to the provisions of this resolution and the Lease Agreement; the Chairman, Chief Executive Officer, and all other members of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the 2016 Mortgage and 2016 Loan Documents, together with such other related documents as may be, in the judgment of the Chairman 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, Chief Executive Officer, or any member of the Agency shall constitute conclusive evidence of such approval; and

(b) The Chairman, Chief Executive Officer, and any member of the Agency are 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 and the Lease Agreement, 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 8. Any expenses incurred by the Agency with respect to the financing or refinancing of the Facility shall be paid by the Company. By acceptance hereof, 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 financing or refinancing of the Facility.

Section 9. This resolution shall take effect immediately.

ADOPTED: August 17, 2016

ACCEPTED: _____, 2016

RAIL REALTY LLC

By: _____
Name:

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

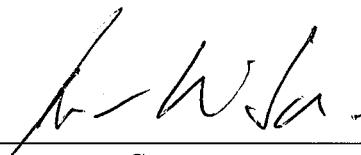
I, the undersigned Secretary of the Town of Brookhaven Industrial Development Agency, DO HEREBY CERTIFY:

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 August 17, 2016, 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 is 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 17th day of August, 2016.

By: 
Secretary