

Date: February 5, 2025

At a meeting of the Town of Brookhaven Industrial Development Agency (the "Agency"), held at 1 Independence Hill, 2nd Floor, Farmingville, New York 11738, on the 5th day of February, 2025, the following members of the Agency were:

Present: Frederick C. Braun III, Chairman
Martin Callahan, Vice Chair
Ann-Marie Scheidt, Secretary
Mitchell H. Pally, Treasurer
Frank C. Trotta, Asst. Treasurer
John Rose, Member

Recused:

Excused: Felix J. Grucci, Jr., Asst. Secretary

Also Present: Lisa MG Mulligan, Chief Executive Officer
Lori LaPonte, Chief Financial Officer
Amy Illardo, Director of Marketing and Project Development
Jocelyn Linse, Executive Assistant
Annette Eaderesto, Esq., Counsel to the Agency
Barry Carrigan, Esq., Transaction Counsel (via Zoom)
Howard Gross, Esq., Transaction Counsel (via Zoom)
Andrew Komaromi, Esq., Transaction Counsel

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to the consent to the subleasing of a portion of the Agency's WF Industrial XIII LLC 2022 Facility to Pickleball Heaven LLC.

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

Voting Aye

Braun
Callahan
Scheidt
Pally
Trotta
Rose

Voting Nay

RESOLUTION OF THE TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY PERTAINING TO THE CONSENT TO THE SUBLEASING OF A PORTION OF THE WF INDUSTRIAL XIII LLC 2022 FACILITY AND APPROVING THE FORM, SUBSTANCE, EXECUTION AND DELIVERY 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 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 the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, the Agency previously provided its assistance to WF Industrial XIII LLC, a limited liability company duly organized and validly existing under the laws of State of New York (the “**Company**”), in the (a) the acquisition of an approximately 9.89-acre parcel of land located at 645 National Boulevard, Medford, New York 11763 (SCTM# 0200-812.00-03.00-005.009, 005.010 & 005.011) (the “**Land**”), (b) the clearance of approximately 9.03 acres of the Land and the construction thereupon of an approximately 129,237 square foot building, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the “**Improvements**”), and (c) the acquisition and installation therein of certain equipment and personal property more fully defined in Exhibit B (the “**Equipment**”; and together with the Land and the Improvements, the “**Facility**”), which Facility is leased by the Agency to the Company, and subleased by the Company to various tenants (the “**Tenants**”), for use as an industrial warehouse and distribution space (the “**Project**”); and

WHEREAS, the Company has previously agreed to lease the Land and the Improvements to the Agency pursuant to the terms of a certain Company Lease Agreement, dated as of December 1, 2022 (the “**Company Lease**”), by and between the Company and the Agency; and

WHEREAS, the Agency is currently leasing the Facility to the Company, pursuant to a certain Lease and Project Agreement, dated as of December 1, 2022 (the “**Lease Agreement**”), between the Agency and the Company; and

WHEREAS, the Company is now in negotiations to sublease a portion of the Facility, totaling approximately 55,709 square feet (the “**Demised Premises**”), to Pickleball Heaven LLC, a New York limited liability company (the “**Tenant**”), pursuant to a certain Lease, dated a date to be determined (the “**Tenant Lease**”), to be used by the Tenant for the operation of a pickleball facility, warehousing, lounge area with bar, parking and storage associated with the operation of a pickleball facility, for a term of approximately ten years after the date of commencement; and

WHEREAS, the Tenant expects to employ twenty (20) full-time employees at the Demised Premises; and

WHEREAS, pursuant to Section 9.3 of the Lease Agreement, the Facility may not be subleased, in whole or in part, without the prior written consent of the Agency; and

WHEREAS, the Company has requested that the Agency consent to the subleasing of a portion of the Demised Premises to the Tenant; and

WHEREAS, in connection with the Company's foregoing request, a letter dated January 20, 2025 from Nelson, Pope & Voorhis, LLC has been submitted to the Agency detailing the Tenant's proposed use of the Demised Premises and related matters; and

WHEREAS, the Agency hereby consents to the subleasing of the Demised Premises; and

WHEREAS, such consent may be manifested by the execution of this resolution and a certain Tenant Agency Compliance Agreement, dated a date as may be determined by the Chairman, Chief Executive Officer and counsel to the Agency (the "**Tenant Agency Compliance Agreement**"), by and between the Agency and the Tenant; 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 and the Tenant have agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated by the subleasing of the Demised Premises.

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 subleasing of the Demised Premises to the Tenant will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the 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

(c) Based on the certification of the Tenant in the Tenant Agency Compliance Agreement, the occupancy of the Demised Premises by the Tenant shall not result in the removal of a facility or plant of the Tenant from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Tenant located within the State; and

(d) It is desirable and in the public interest for the Agency to consent to the subleasing of a portion of the Facility and to enter into the Tenant Agency Compliance Agreement; and

(e) The Agency consents to the sublease of the Demised Premises to the Tenant; and

(f) The execution of the Tenant Agency Compliance Agreement will satisfy the requirement of Section 9.3 of the Lease Agreement that any sublease of the Facility be consented to in writing by the Agency; and

(g) It is desirable and in the public interest for the Agency to consent to the sublease of the Demised Premises and to enter into the Tenant Agency Compliance Agreement.

Section 2. In consequence of the foregoing, the Agency hereby determines to enter into the Tenant Agency Compliance Agreement.

Section 3. The form and substance of the Tenant Agency Compliance Agreement (in substantially the form presented to the Agency and which, prior to the execution and delivery thereof, may be redated) is hereby approved.

Section 4.

(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 Tenant Agency Compliance Agreement in the form 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, Chief Executive Officer, or any member and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the "**Agency Documents**"). The execution thereof by Chairman, Vice 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 5. 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 6. Any expenses incurred by the Agency with respect to the Demised Premises shall be paid by the Company. The Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Demised Premises.

Section 7. The provisions of this resolution shall continue to be effective for one year from the date hereof, whereupon the Agency may, at its option, terminate the effectiveness of this Resolution (except with respect to the matters contained in Section 6 hereof).

Section 8. This resolution shall take effect immediately.

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

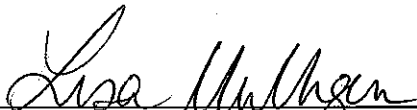
I, the undersigned Chief Executive Officer of the Town of Brookhaven Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Town of Brookhaven Industrial Development Agency (the “Agency”), including the resolutions contained therein, held on the 5th day of February, 2025, 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 in all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 5th day of February, 2025.

By 
Lisa MG Mulligan, Chief Executive Officer

Date: October 26, 2022

At a meeting of the Town of Brookhaven Industrial Development Agency (the "Agency"), held on the 26th, day of October, 2022, at 1 Independence Hill, 2nd Floor Media Room, Farmingville, New York 11738, the following members of the Agency were:

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

Recused:

Excused: Mitchell H. Pally, Member

Also Present: Lisa M. G. Mulligan, Chief Executive Officer
Lori LaPonte, Chief Financial Officer
John LaMura, Deputy Director
Jocelyn Linse, Executive Assistant
Terri Alkon, Administrative Assistant
Amy Illardo, Director of Marketing & Project Development
Annette Eaderesto, Esq., Counsel to the Agency
Terance V. Walsh, Esq., Transaction Counsel
Howard Gross, Esq., Transaction Counsel

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to acquisition of a leasehold interest in and title to a certain industrial development facility more particularly described below (WF Industrial XIII LLC 2022 Facility) and the leasing of the facility to WF Industrial XIII LLC.

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

Voting Aye

Voting Nay

Braun
Grucci
Callahan
Scheidt
Pollakusky
Trotta

RESOLUTION OF THE TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A CERTAIN INDUSTRIAL DEVELOPMENT FACILITY AND APPROVING THE APPOINTMENT OF WF INDUSTRIAL XIII 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 WF INDUSTRIAL XIII LLC AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING AS AGENT OF THE AGENCY FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING AND EQUIPPING THE FACILITY, AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE FACILITY AND APPROVING THE FORM, SUBSTANCE AND EXECUTION OF RELATED DOCUMENTS

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

WHEREAS, WF Industrial XIII 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 WF Industrial XIII LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Company**”), has applied to the Agency for assistance in connection with: (a) the acquisition of an approximately 9.89-acre parcel of land located at 645 National Boulevard, Medford, New York 11763 (SCTM# 0200-812.00-03.00-005.009, 005.010 & 005.011) (the “**Land**”), (b) the clearance of approximately 9.03 acres of the Land and the construction thereupon of an approximately 129,237 square foot building, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the “**Improvements**”), and the acquisition and installation therein of certain equipment and personal property (the “**Equipment**”; and together with the Land and the Improvements, the “**Facility**”), which Facility will be leased by the Agency to the Company, and subleased by the Company to various tenants (the “**Tenants**”), for use as an industrial warehouse and distribution space (the “**Project**”); and

WHEREAS, the Agency will acquire a leasehold interest in the Land and the Improvements pursuant to a certain Company Lease Agreement, dated as of October 1, 2022, or such other date as the Chairman, the Chief Executive Officer of the Agency and counsel to the Agency shall agree (the “**Company Lease**”), by and between the Company and the Agency; and

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

WHEREAS, the Agency will sublease and lease the Facility to the Company pursuant to a certain Lease and Project Agreement, dated as of October 1, 2022, or such other date as the Chairman, the Chief Executive Officer of the Agency and counsel to the Agency shall agree (the "**Lease Agreement**"), by and between the Agency and the Company; and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company in the form of: (i) exemptions from mortgage recording taxes for one or more mortgages securing an amount presently estimated to be \$21,968,044 but not to exceed \$23,000,000, corresponding to mortgage recording tax exemptions presently estimated to be \$164,760.33, but not to exceed \$172,500, in connection with the financing of the acquisition, construction and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of the acquisition, construction and equipping of the Facility, (ii) exemptions from sales and use taxes in an amount not to exceed \$819,633.75, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, and (iii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit C hereof); and

WHEREAS, in connection with the abatement of real property taxes as set forth in the PILOT Schedule on Exhibit C hereof, the current pro-rata allocation of PILOT payments to each affected tax jurisdiction in accordance with Section 858(15) of the Act and the estimated difference between the real property taxes on the Facility and the PILOT payments set forth on the PILOT Schedule on Exhibit C hereof is more fully described in the Cost Benefit Calculator, prepared for the Agency by MRB Group ("**CBA**") developed in accordance with the provisions of Section 859-a(5)(b) of the Act, a copy of which CBA is attached hereto as Exhibit E; 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, as security for a loan or loans, the Agency and the Company will execute and deliver to a lender or lenders not yet determined (collectively, the "**Lender**"), a mortgage or mortgages, and such other loan documents satisfactory to the Agency, upon advice of counsel, in both form and substance, as may be reasonably required by the Lender, to be dated a date to be determined, in connection with the financing, any refinancing or permanent financing of the costs of the acquisition, construction and equipping of the Facility (collectively, the "**Loan Documents**"); and

WHEREAS, the Agency required the Company to provide to the Agency a feasibility report, prepared by Nelson Pope Voorhis, dated May 17, 2022, entitled Fiscal & Economic Impact Analysis (the "**Feasibility Study**" and the "**Requisite Materials**") to enable the Agency to make findings and determinations that the Facility qualifies as a "project" under the Act, that the Facility satisfies all other requirements of the Act, and that the Project contributes to the economic health of the Town of Brookhaven and such Feasibility Study is attached as Exhibit D hereof; and

WHEREAS, a public hearing (the “**Hearing**”) was held on October 24, 2022, so that all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency or the location or nature of the Facility, could be heard; and

WHEREAS, notice of the Hearing was given on October 14, 2022 and such notice (together with proof of publication), was substantially in the form annexed hereto as Exhibit A; and

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

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

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

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

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

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

WHEREAS, pursuant to a resolution, dated August 11, 2022, the Lead Agency determined that the Action in connection with the Facility (the “**Action**”), is a Type 1 Action for SEQR purposes; and

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

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

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

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

Section 2. In connection with the acquisition, construction and equipping of the Facility the Agency hereby makes the following determinations and findings based upon the Agency's review of the information provided by the Company with respect to the Facility, including, the Company's Application, the Requisite Materials and other public information:

(a) There is a lack of distribution, manufacturing and warehouse space in the Town of Brookhaven;

(b) Distribution, manufacturing and warehouse space is needed in the Town of Brookhaven in order to allow local businesses to track inventory, centralize products, ensure safe storage of items, and fulfill orders, and otherwise benefit the economic health and well-being of the businesses of the Town of Brookhaven, employers, and the tax base of the Town of Brookhaven, increase the economic health and well-being of the residents of the Town of Brookhaven, help preserve and increase permanent private sector jobs in furtherance of the Agency's public purposes as set forth in the Act, and therefore the Agency finds and determines that the Facility is a commercial project within the meaning of Section 854(4) of the Act; and

(d) The Facility will preserve the public purposes of the Act by increasing the number of private sector jobs in the Town of Brookhaven. The Company has represented to the Agency that they will provide a minimum of seventy (70) full-time equivalent employees ("FTE") at the Facility within the second year of completion.

Section 3. The Agency hereby finds and determines:

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

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

(c) The acquisition, construction and equipping of the Facility by the Agency, the subleasing and leasing of the Facility to the Company and the provision of financial assistance pursuant to the Act will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the Town of Brookhaven and the people of the State of New York and improve their standard of living, and thereby serve the public purposes of the Act, and the same is, therefore, approved; 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) It is desirable and in the public interest for the Agency to lease the Facility to the Company; and

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

(h) The Lease Agreement will be an effective instrument whereby the Agency leases and subleases the Facility to the Company, the Agency and the Company set forth the terms and conditions of their agreement regarding payments-in-lieu of taxes, the Company agrees to comply with all Environmental Laws (as defined therein) applicable to the Facility and will describe the circumstances in which the Agency may recapture some or all of the benefits granted to the Company; and

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

Section 4. The Agency has assessed all material information included in connection with the 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 5. In consequence of the foregoing, the Agency hereby determines to: (i) lease the Land and the Improvements from the Company pursuant to the Company Lease, (ii) execute, deliver and perform the Company Lease, (iii) sublease and lease the Facility to the Company pursuant to the Lease Agreement, (iv) execute, deliver and perform the Lease Agreement, (v) grant a mortgage on and security interests in and to the Facility pursuant to the Loan Documents, and (vi) execute and deliver the Loan Documents to which the Agency is a party.

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

Section 7. The Agency hereby authorizes and approves the following economic benefits to be granted to the Company in connection with the acquisition, construction and equipping of the Facility in the form of (i) exemptions from mortgage recording taxes for one or more mortgages securing an amount presently estimated to be \$21,968,044 but not to exceed \$23,000,000, corresponding to mortgage recording tax exemptions presently estimated to be \$164,760.33, but not to exceed \$172,500, in connection with the financing of the acquisition, construction, and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of the acquisition, construction and equipping of the Facility, (ii) exemptions from sales and use taxes in an amount not to exceed \$819,633.75, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, and (iii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit C hereof), all consistent with the policies of the Agency.

Section 8. 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, construct and equip the Facility. The Agency hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Company, as agent of the Agency, solely for purposes of making sales or leases of goods, services and supplies to the Facility, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Company, as agent of the Agency, shall be deemed to be on behalf of the Agency and for the benefit of the Facility. This agency appointment expressly excludes the purchase by the Company of any motor vehicles, including any cars, trucks, vans or buses which are licensed by the Department of Motor Vehicles for use on public highways or streets. The Company shall indemnify the Agency with respect to any transaction of any kind between and among the agents, subagents, contractors, subcontractors, materialmen, vendors and/or suppliers and the Company, as agent of the Agency. The aforesaid appointment of the Company, as agent of the Agency, to acquire, construct 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 \$819,633.75, 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 execution of the documents contemplated by this resolution.

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

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

Section 11.

(a) The Chairman, the Chief Executive Officer of the Agency or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Company Lease, the Lease 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, the Chief Executive Officer of the Agency 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, the Chief Executive Officer of the Agency or any member of the Agency shall constitute conclusive evidence of such approval.

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

Section 12. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments and documents, pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

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

Section 15. This resolution shall take effect immediately.

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

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

That I have compared the annexed extract of the minutes of the meeting of the Town of Brookhaven Industrial Development Agency (the “Agency”), including the resolutions contained therein, held on the 26th day of October, 2022, 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 26th day of October, 2022.


By: 
Chief Executive Officer

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York State General Municipal Law will be held by the Town of Brookhaven Industrial Development Agency (the “Agency”) on the 24th day of October, 2022, at 10:00 a.m. local time, the at Town of Brookhaven Town Hall, 1 Independence Hill, Farmingville, New York 11738, in connection with the following matters:

WF Industrial XIII 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 and/or equity investors of WF Industrial XIII LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Company”), has applied to the Agency for assistance in connection with: (a) the acquisition of an approximately 9.89-acre parcel of land located at 645 National Boulevard, Medford, New York 11763 (SCTM# 0200-812.00-03.00-005.009, 005.010 & 005.011) (the “Land”), (b) the clearance of approximately 9.03 acres of the Land and the construction thereupon of an approximately 129,237 square foot building, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the “Improvements”), and the acquisition and installation therein of certain equipment and personal property (the “Equipment”; and together with the Land and the Improvements, the “Facility”), which Facility will be leased by the Agency to the Company, and subleased by the Company to various tenants (the “Tenants”), for use as an industrial warehouse and distribution space (the “Project”). The Facility will be initially owned, operated and/or managed by the Company.

The Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from mortgage recording taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes and abatement 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 financial assistance to the Company or the location or nature of the Facility. Prior to the hearing, all persons will have the opportunity to review on the Agency’s website (<https://brookhavenida.org/>), the application for financial assistance filed by the Company with the Agency and an analysis of the costs and benefits of the proposed Facility.

Dated: October 24, 2022

TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY

By: Lisa MG Mulligan
Title: Chief Executive Officer

EXHIBIT B

MINUTES OF PUBLIC HEARING HELD ON
OCTOBER 24, 2022 AT 10:00 A.M.

TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY
(WF INDUSTRIAL XIII LLC 2022 FACILITY)

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

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

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

WF Industrial XIII 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 and/or equity investors of WF Industrial XIII LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Company”), has applied to the Agency for assistance in connection with: (a) the acquisition of an approximately 9.89-acre parcel of land located at 645 National Boulevard, Medford, New York 11763 (SCTM# 0200-812.00-03.00-005.009, 005.010 & 005.011) (the “Land”), (b) the clearance of approximately 9.03 acres of the Land and the construction thereupon of an approximately 129,237 square foot building, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the “Improvements”), and the acquisition and installation therein of certain equipment and personal property (the “Equipment”; and together with the Land and the Improvements, the “Facility”), which Facility will be leased by the Agency to the Company, and subleased by the Company to various tenants (the “Tenants”), for use as an industrial warehouse and distribution space (the “Project”). The Facility will be initially owned, operated and/or managed by the Company.

The Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from mortgage recording taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes and abatement of real property taxes, consistent with the policies of the Agency.

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

See attached.

Section 20. The hearing officer then asked if there were any further comments, and, there being none, the hearing was closed at 10:30 a.m.

The South Country Central School District is aware of a proposed project, WF Industrial LLC, to be situated within the District's boundaries. In that regard we request the Brookhaven Industrial Development Agency consider the potential impact of the project upon the District and its taxpayers and the needs of the school district in its consideration of the request for financial assistance by this for-profit entity. If any benefit to the District, its students or taxpayers may be achieved through this project, we would request the IDA's assistance in obtaining such benefit. The Board of Education would welcome the opportunity to discuss any such potential benefit that may accrue to the District.

DATE: 10/24/22

PUBLIC HEARING

REQUEST TO ADDRESS THE BROOKHAVEN IDA BOARD

Speakers are limited to three (3) minutes. Longer statements may be submitted in writing to the IDA for distribution and shall become part of the permanent record if desired.

NAME (Please Print) ANTONIO SANTANA

ADDRESS 189 N. DUNTON AVE
Palmyra NY

PHONE 631 730 1501

REPRESENTING SOUTH COUNTRY CSD

HANDICAPPED SERVICES AVAILABLE UPON REQUEST

From: Kerim Odekon <kerimodekon@gmail.com>

Sent: Monday, October 24, 2022 8:03 AM

To: Abena Asare <landfillaction631@gmail.com>; AnnMarie Scheidt <annmarie.scheidt@stonybrook.edu>; Annelies <annelies.kamran@gmail.com>; Barry, Joseph <jbarry@southcountry.org>; Brookhaven NAACP <Brookhavennaacp2133@gmail.com>; Councilman Foley <councilmanfoley@brookhavenny.gov>; Kevin LaValle <klavalle@brookhavenny.gov>; Daniel Panico <councilmanpanico@brookhavenny.gov>; Dennis Nix <Dennisnix30@yahoo.com>; Edward P. Romaine <eromaine@brookhavenny.gov>; Felice, Cheryl <cfelice@southcountry.org>; Hannah Thomas <hannah0058@yahoo.com>; Hayes, Anne <ahayes@southcountry.org>; Jane Bonner <councilwomanbonner@brookhavenny.gov>; Jennifer Greene <jrg1232@gmail.com>; Joann Neal <joannneal237@gmail.com>; Jonathan Kornreich <jkornreich@brookhavenny.gov>; Julia Villacara <Julia.Villacara@gmail.com>; Kavanagh, Tara <tkavanagh@southcountry.org>; Lisa Eguizabel <Luvlee615@gmail.com>; Lisa Mulligan <lmulligan@brookhavenny.gov>; Maya Schindler <maya.schindler@gmail.com>; Michael Loguercio <mloguercio@brookhavenny.gov>; Michelle Mendez <michellemendez8@yahoo.com>; Monique <mfitzgerald007@yahoo.com>; Nancy Marr <enpymarr@optonline.net>; Nicole Jean Christian <nicolejeanchristian@gmail.com>; Picini, Chris <cpicini@southcountry.org>; Santana, Antonio <ASantana@southcountry.org>; Shoshana Hershkowitz <shoshanahershkowitz@gmail.com>; South Country Unites <southcountryunites@gmail.com>; Trent, Cameron <ctrent@southcountry.org>; lynne Maher <nicasirena1@gmail.com>; rflippen@southcountry.org <rflippen@southcountry.org>

Subject: Re: WF Industrial XIII LLC IDA Application

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Supervisor Romaine, Brookhaven Town Council and IDA CEO Mulligan and IDA Board,

We are asking the Brookhaven Industrial Development Association (IDA) to reject the property and sales tax application of WF Industrial XIII LLC for their proposed 130,000 square foot truck terminal and warehouse complex, impacting both the South Country and Longwood School Districts.

There is no IDA analysis which shows that this speculative warehouse project cannot afford to pay sales, mortgage recording and property taxes within the South Country School District. Roughly 70% of property taxes fund our South Country public schools, and sales taxes make up roughly 40% of our County Budget. The recent \$80M IDA tax exemption package granted to Winters NP for 2.5 million square feet of warehouses equates to almost \$80,000 per permanent job. This figure is almost 25x the tax incentive per job that NYS Comptroller cited as Brookhaven IDA's average net incentive per job (<https://wwe1.osc.state.ny.us/localgov/ida/ida.cfm?EcoReg=LOI&year=2020>). The Winters NP exemption cost South Country and Longwood districts - both majority-minority, majority-economically disadvantaged districts - over \$20M EACH in forgone taxes. When large wealthy corporations do not pay their fair share, existing residents and businesses are squeezed to make up the difference with property tax increases.

The recent revocation of IDA tax breaks for warehouses in Syosset and Melville prove that these warehouses are economically feasible without IDA benefits

(<https://www.newsday.com/business/amazon-tax-breaks-warehouse-jobs-g4vu3ulw>)

<https://www.newsday.com/amp/business/amazon-ida-tax-breaks-hartz-mountain-melville-warehouse-fs6y1zw3>

The WF Industrial XIII LLC IDA application threatens that without the \$2.86M in financial assistance of the IDA, the region would lose the 40 full time permanent jobs which are being promised (see screenshot below). In what world does it make sense to give tax incentives of over \$70,000 per full time permanent warehouse job? There is no analysis to support the developers claim that without this tax break they will move to a lower tax community. These are speculative warehouse jobs - they cannot move to Pennsylvania, it defeats the purpose of the industry. IDA members would never make business decisions like this in their personal businesses, yet they entertain such sw sw bogus claims at the expense of children and taxpayers within majority-minority majority economically disadvantaged school districts.

3. Is there a likelihood that the Applicant would proceed with this project without the Agency's assistance? (If no, please explain why; if yes, please explain why the Agency should grant the benefits requested)

Yes No

Due to rising construction materials and labor costs, increased real estate taxes, and uncertainty of taxes required by lenders,

Applicant would not be able to proceed with the proposed project

4. If the Applicant is unable to obtain financial assistance from the Agency for the project, what would be the impact on the Applicant and on the municipality?

If the Applicant is unable to obtain financial assistance from the Agency, Applicant would have to identify other areas with lower

taxes for investment, and the Town would lose the benefit of having new, job creating, industrial real estate stock added within its borders.

Another nearby South Country School District proposed warehouse with a pending application at the IDA, AIREF, was much more honest about the impact of IDA incentives. On Wednesday Sept 14th 2022 ARES VP Mr Hiller candidly told the South Country community, upset over AIREF's IDA application, "its like a statutory available IDA application. We submitted the application. We looked at the rules of the IDA application, we didn't make them up on our own, it's available to people to come here to develop and we submitted to see where we can go with it. I will be very honest in the sake of, we are not 100% sure that we want to pursue an IDA application here. We put it in, to make sure we are looking at every possible opportunity to make this project feasible" (

<https://youtu.be/OWA86O71QmI>). As AIREF lobbyist Assemblyman Keith Brown tells the audience "The point is they [IDA incentives] are statutory and they are available. As anybody would, they are looking into it". IDA tax exemptions are clearly not the difference between these projects happening or not happening. In fact IDA's showering of unnecessary incentives has warehouse developers applying indiscriminately to the IDA for incentives because they can, not because these exemptions incentivize any economic development.

According to Newsday, "Warehouse vacancy rates on Long Island have plummeted from 11.4% in 2012 to 2.3% today. As a result, rents have soared in the period, going from \$6.79 per square foot, on average, to \$14.52" (<https://www.newsday.com/business/amazon-warehouse-factory-long-island-mdxu3ri9>). The IDA's own Camion commissioned study shows the Brookhaven

warehouse industry will be facing double digit vacancies due to a glut of warehouses even if only 80% of the pipeline is built. IDA board members Grucci, Pollausky themselves clearly think this is an industry that does not require subsidy (see <https://youtu.be/l0kidyMbLRk> 1:32:30 IDA Board-member Gary Pollakusky asks "Where is the garbage going? We will become a storage center for the region. Do we want to consider adding something to our process here that limits these projects", while at 1:34:30 Mr Grucci talks about creating jobs in the short term but incentivizing a glut of warehouses causing unemployment in long term).

The Newsday headline says it all "Long Island warehouse boom may turn into a glut" (<https://www.newsday.com/business/ida-tax-breaks-warehouses-vacancies-online-shopping-jobs-d6p0bzz3>). "We see real potential for overbuilding," said John Walker, an analyst for Camoin, [...] He and Camoin chief operating officer Rachel Selsky said the drawbacks of overbuilding include the closure of existing warehouses, job losses and tax breaks awarded to projects that then cannot find tenants."

It is also concerning that the developer's budget notes they are paying the IDA over \$258,000 in application fees (p31 <https://brookhavenida.org/files/WF%20Industrial%20XIII/application%20-%20WF%20XIII.pdf>). It is no wonder that on 9/27/22 CEO Mulligan was quick to direct the board to accept the existing five warehouse projects which already submitted applications to the IDA. Unfortunately the IDA fee and employee incentive structure (<https://brookhavenida.org/files/Resolution%2024%20-%20Adopting%20an%20incentive%20compensation%20policy%202022.pdf>) incentivizes the IDA to pay itself at the expense of local School Districts. This is the definition of fiscal irresponsibility.

It is important to note that this truck terminal/warehouse complex is across the street from the Habitots Preschool & Child Care Center - is this where the IDA wants to incentivize yet another diesel-truck serviced warehouse in an overburdened community?

Speculative warehouses, distribution centers and truck terminals are not industries in need of economic incentives in Long Island.

The children and taxpayers of South Country School District cannot afford to be giving millions of square feet of polluting truck terminals/warehouses endless tax exemptions while asking district taxpayers to pick up the tab. Our district's school children are our most important community economic engine and their education is economic development. If these polluting, speculative, non-union industries come into our community, they should be meeting the most strict environmental/planning requirements and paying full taxes.

The Brookhaven IDA's reckless and fiscally irresponsible incentives, at the expense of local school district budgets, must be reigned in. The Brookhaven IDA Board needs to stand up for local school children and South Country taxpayers and say enough is enough.

Best,
Kerim Odekon, MD MRP MSc
Abena Asare
Brookhaven Hamlet

From: julia villacara <julia.villacara@gmail.com>
Sent: Monday, October 24, 2022 9:04 AM
To: Lisa Mulligan <lmulligan@brookhavenny.gov>
Subject: WF Industrial XIII LLC IDA application

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To Ms. Mulligan and the IDA Board,

As a taxpayer in the South Country School District, I ask the Brookhaven Industrial Development Association (IDA) Board reject the WF Industrial XIII LLC IDA application. Giving \$2.86M in financial assistance to WF Industrial for the promise of 40 full time permanent jobs is absurd. You are proposing giving away \$70,000 per full time permanent warehouse job in incentives while our taxpayers and businesses are forced to make up the difference.

The South Country School District is facing a looming financial crisis. The burden of that crisis will be put upon the residential taxpayer and our small businesses if the IDA carelessly continues to give money away with little to no benefit to the District. Setting that burden on our taxpayers endangers our school budget of passing. If the school budget doesn't pass, who then suffers? The children of our district with program and educational cuts. Not these corporations. No, our children and the future of Long Island does.

The IDA Board, while giving fantastic breaks to companies that can afford to pay their fair share of sales, mortgage recording and property taxes within the South Country School District, will cause our District children's futures to shrivel.

There is no analysis showing how this warehouse will benefit the District. It only shows to bring great harm environmentally and financially. The warehouses' traffic will pollute the immediate area with diesel fuel from increased truck traffic. The saturation of warehouses moving in to the Town of Brookhaven is creating a future that looks grim financially. With the onslaught of warehouses at such a high rent, the analysis predicts they will sit abandoned in a few years time. More corporate skeletons crumbling into over 9 acres of what is now wooded land. It will be a structural monument of the IDA Board's recklessness.

We've already seen too many millions leave our South Country School District and the Longwood District to benefit multi-million dollar corporations who could afford to pay their share. The IDA in its excessive, boondoggle giveaways to the Winter Bros. project have cost this district millions dollars.

Enough is enough. Once again, these companies don't need these incentives. Our District children and their futures do.

Thank you.
Julia Villacara
Taxpayer
Brookhaven Hamlet

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), South Country and Longwood School Districts, Suffolk County and Appropriate Special Districts

Property Address: 645 National Boulevard, Medford, New York
Tax Map Nos. 0200-812.00-03.00-005.009, 005.010 & 005.011
School Districts: South Country and Longwood

<u>Year</u>	<u>PILOT Payment</u>
1	\$23,931
2	\$24,409
3	\$39,392
4	\$80,359
5	\$122,950
6	\$167,212
7	\$213,195
8	\$260,950
9	\$310,531
10	\$631,990
11	\$415,383
12	\$470,768

EXHIBIT D

Economic Impact Analysis of Nelson Pope Voorhis

EXHIBIT E

Cost Benefit Analysis

Cost Benefit Calculator, prepared by MRB Group

Date: January 23, 2024

At a meeting of the Town of Brookhaven Industrial Development Agency (the “Agency”), held at 1 Independence Hill, 2nd Floor, Farmingville, New York 11738, on the 23rd day of January 2024, the following members of the Agency were:

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

Recused:

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

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

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to the consent to the subleasing of a portion of the Agency’s WF Industrial XIII LLC 2022 Facility to NY CDG 009 LLC

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

Voting Aye

Voting Nay

Braun
Callahan
Scheidt
Pollakusky
Trotta
Pally

RESOLUTION OF THE TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY PERTAINING TO THE CONSENT TO THE SUBLEASING OF A PORTION OF THE WF INDUSTRIAL XIII LLC 2022 FACILITY AND APPROVING THE FORM, SUBSTANCE, EXECUTION AND DELIVERY 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 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 the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, the Agency previously provided its assistance to WF Industrial XIII LLC, a limited liability company duly organized and validly existing under the laws of State of New York (the “**Company**”), in the (a) the acquisition of an approximately 9.89-acre parcel of land located at 645 National Boulevard, Medford, New York 11763 (SCTM# 0200-812.00-03.00-005.009, 005.010 & 005.011) (the “**Land**”), (b) the clearance of approximately 9.03 acres of the Land and the construction thereupon of an approximately 129,237 square foot building, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the “**Improvements**”), and (c) the acquisition and installation therein of certain equipment and personal property more fully defined in Exhibit B (the “**Equipment**”; and together with the Land and the Improvements, the “**Facility**”), which Facility is leased by the Agency to the Company, and subleased by the Company to various tenants (the “**Tenants**”), for use as an industrial warehouse and distribution space (the “**Project**”); and

WHEREAS, the Company has previously agreed to lease the Land and the Improvements to the Agency pursuant to the terms of a certain Company Lease Agreement, dated as of December 1, 2022 (the “**Company Lease**”), by and between the Company and the Agency; and

WHEREAS, the Agency is currently leasing the Facility to the Company, pursuant to a certain Lease and Project Agreement, dated as of December 1, 2022 (the “**Lease Agreement**”), between the Agency and the Company; and

WHEREAS, the Company is now in negotiations to sublease a portion of the Facility, totaling approximately 115,000 square feet of rooftop space (the “**Demised Premises**”), to NY CDG 009 LLC, a New York limited liability company (the “**Tenant**”), pursuant to a certain Lease, dated a date to be determined (the “**Tenant Lease**”), to be used by the Tenant for the installation, improving, upgrading, replacing, relocating and removing and the use, maintenance, repair and operation of the equipment used to produce solar-generated electricity at the Facility (the “**Solar System**”), to make available electricity to the Consolidated Edison Company of New York, Inc. (the “**Utility**”), for a term commencing on the earlier date of (i) the substantial completion of the construction work of the Demised

Premises, or (ii) the date upon which the Tenant takes possession of the Demised Premises and ending on a date that is twenty-five years after the date of commencement; and

WHEREAS, the Tenant expects to employ zero (0) full-time employees at the Demised Premises; and

WHEREAS, pursuant to Section 9.3 of the Lease Agreement, the Facility may not be subleased, in whole or in part, without the prior written consent of the Agency; and

WHEREAS, the Company has requested that the Agency consent to the subleasing of a portion of the Demised Premises to the Tenant; and

WHEREAS, the Agency hereby consents to the subleasing of the Demised Premises; and

WHEREAS, such consent may be manifested by the execution of this resolution and a certain Tenant Agency Compliance Agreement, dated a date as may be determined by the Chairman, Chief Executive Officer and counsel to the Agency (the "**Tenant Agency Compliance Agreement**"), by and between the Agency and the Tenant; 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 and the Tenant have agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated by the subleasing of the Demised Premises.

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 subleasing of the Demised Premises to the Tenant will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the 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

(c) Based on the certification of the Tenant in the Tenant Agency Compliance Agreement, the occupancy of the Demised Premises by the Tenant shall not result in the removal of a facility or plant of the Tenant from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Tenant located within the State; and

(d) It is desirable and in the public interest for the Agency to consent to the subleasing of a portion of the Facility and to enter into the Tenant Agency Compliance Agreement; and

(e) The Agency consents to the sublease of the Demised Premises to the Tenant; and

(f) The execution of the Tenant Agency Compliance Agreement will satisfy the requirement of Section 9.3 of the Lease Agreement that any sublease of the Facility be consented to in writing by the Agency; and

(g) It is desirable and in the public interest for the Agency to consent to the sublease of the Demised Premises and to enter into the Tenant Agency Compliance Agreement.

Section 2. In consequence of the foregoing, the Agency hereby determines to enter into the Tenant Agency Compliance Agreement.

Section 3. The form and substance of the Tenant Agency Compliance Agreement (in substantially the form presented to the Agency and which, prior to the execution and delivery thereof, may be redated) is hereby approved.

Section 4.

(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 Tenant Agency Compliance Agreement in the form 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, Chief Executive Officer, or any member and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the “**Agency Documents**”). The execution thereof by Chairman, Vice 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 5. 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 6. Any expenses incurred by the Agency with respect to the Demised Premises shall be paid by the Company. The Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Demised Premises.

Section 7. The provisions of this resolution shall continue to be effective for one year from the date hereof, whereupon the Agency may, at its option, terminate the effectiveness of this Resolution (except with respect to the matters contained in Section 6 hereof).

Section 8. This resolution shall take effect immediately.

