

RESOLUTION GRANTING APPROVAL OF AND AUTHORIZING THE GRANT OF CERTAIN FINANCIAL ASSISTANCE BY THE TOWN OF BABYLON INDUSTRIAL DEVELOPMENT AGENCY TO KELVIN LP AND HADAR REAL ESTATE CO., LLC IN CONNECTION WITH THE ACQUISITION RENOVATION AND EQUIPPING OF OFFICE, MANUFACTURING AND WAREHOUSING FACILITIES IN THE TOWN OF BABYLON

WHEREAS, the Town of Babylon Industrial Development Agency (the "Agency") is authorized under the laws of the State of New York, and in particular under the provisions of the New York State Industrial Development Agency Act and the Agency's enabling legislation, respectively constituting Article 18-A and Section 907-a of the General Municipal Law (Chapter 24 of the Consolidated Laws of New York), as amended (the "Act"), to assist in providing for manufacturing, warehousing, research, civic, commercial and industrial facilities in the Town of Babylon; and

WHEREAS, on May 8, 2000 the Agency entered into a straight lease transaction (as that term is defined under the Act) with Kelvin LP, a partnership organized and existing under the laws of the State of New York (the "Company"), and Hadar Real Estate Co., LLC, a limited liability company organized and existing under the laws of the State of New York, or any other real estate holding entity formed by the principals of the Company (the "Owner") in order to provide financial assistance with respect to a project consisting of the acquisition, renovation and equipping of an approximately 21,000 square foot office, manufacturing and warehousing facility located on that certain lot, piece or parcel of land generally known as and located at 280 Adams Blvd. in Farmingdale, New York 11735 (the "Existing Facility"), in the Town of Babylon, New York (the "Town"), for use by Company in its in its business of design and manufacture of educational products for schools including software, hardware and mechanical devices at the Existing Facility (the "Existing Project") and in accordance with such straight lease transaction, the Agency and the Owner entered into a Lease Agreement (the "Existing Lease Agreement") dated May 8, 2000; and

WHEREAS, representatives of Company and Owner have supplied information to the Town of Babylon Industrial Development Agency (the "Agency") with respect to a new project (the "Project") consisting of the renovation and equipping by the Owner of the Existing Facility (the "Facility"), for use by Company in its business of design and manufacture of educational products for schools including software, hardware and mechanical devices; and

WHEREAS, the Owner and the Company are in need of upgrading its facilities in the Town including undertaking the acquisition of new equipment for its operations, reconstructing the roof at its facility and undertaking certain environmental remediation on its facility site and in conjunction with the foregoing the Owner and the Company are considering relocating its facilities in the Town to a new location outside of the State of New York which relocation would significantly reduce operating costs to the Owner and the Company; and

WHEREAS, in order to induce the Owner and the Company to retain and provide further investment into the Facility in the Town and retain and grow additional jobs in the Town it appears necessary to assist the Owner and the Company by taking leasehold title to the Facility so as to afford the Company and the Owner certain relief from mortgage recording taxation,

relief from real property taxation, mortgage recording taxation and relief from sales and use taxation for a limited period; and

WHEREAS, it is contemplated that the Agency, the current owner of the Facility will cause the transfer of the Facility to the Owner, the Owner will lease the Facility to the Agency pursuant to a Company Lease Agreement (the "Company Lease Agreement"), by and between the Owner and the Agency, and the Agency will assist the Owner and the Company to undertake the Project and will further lease or sublease the Facility to the Owner pursuant to a Lease and Project Agreement (the "Lease Agreement"), by and between the Owner and the Agency pursuant to which the Owner agrees, among other things, to make lease payments in such amounts as specified in the Lease Agreement and it is intended that the Owner will sublease the Facility to the Company pursuant to a sublease agreement (the "Sublease Agreement"), by and between the Owner and the Company pursuant to which the Company agrees, among other things, to make sublease payments in such amounts as specified in the Sublease Agreement which shall equal all amounts due to the Agency under the Lease Agreement; and

WHEREAS, pursuant to the Lease Agreement and the Sublease Agreement the Owner and the Company have agreed to make certain payments in lieu of real property taxes with respect to the Facility to the Agency; and

WHEREAS, in connection with the Agency's evaluation of the Project for the provision of financial assistance, the Agency has (i) assessed all material information relating to the project included in the Company's project application (the "Project Application") in order to afford a reasonable basis for the decision of the Agency to provide financial assistance to the Project; and (ii) prepared and reviewed a written cost benefit analysis (the "Cost Benefit Analysis") for the Project in accordance with the Uniform Project Evaluation Criteria Policy of the Agency which identifies the extent to which (A) the Project will create or retain permanent, private sector jobs; (B) the estimated value of any tax exemption to be provided to the Project, (C) the amount of private sector investment generated or likely to be generated by the Project; (D) reviewed the likelihood of accomplishing the proposed project in a timely fashion; and (E) considered the extent to which the Project will provide additional sources of revenue for the Town and the school district where the Facility is located: and

WHEREAS, in connection with the adoption of this resolution the Agency has reviewed the Project Application and the Company has confirmed in such Project Application that as of the date of the Projection Application, the Company is in substantial compliance with the Act; and

WHEREAS, there has been submitted to the Agency an environmental assessment form with respect to this proposed action in accordance with the State Environmental Quality Review Act and the regulations promulgated thereunder ("SEQRA"); and

WHEREAS, it is desired that the Agency authorize the granting of certain financial assistance to the Owner and the Company in connection with the Project and the Facility including exemption from mortgage recording taxes, real property taxes and sales and use taxes.

NOW, THEREFORE, BE IT DETERMINED, APPROVED AND RESOLVED by the members of the Agency as follows:

Section 1. With respect to the Agency's evaluation criteria for Manufacturing, Warehousing and Distribution Projects the Agency makes the following determinations:

- (a) It has reviewed the information in the Cost Benefit Analysis with respect to the Project.
- (b) The Company proposes a capital investment in the Facility of approximately \$312,000, which includes replacement/repair of the roof, environmental work and purchase and installation of machinery and equipment.
- (c) The Project will not have significant impact on local labor in the Town.
- (d) Wage rates for the employees of the Company average \$42,000 which is less than the median wage for the region.
- (e) The Company has a positive impact on regional wealth creation in the Town.
- (f) The Project will not have a significant effect on in-region purchases.
- (g) The Project will not have a significant effect on energy efficiency.
- (h) The Project will not affect existing land use or zoning.
- (i) The Project is critical to retention of a an important employer of the Town. The Company employs at a minimum 15 full time employees in the Town and expects to employ an additional 10 employees within the next 10 years and is considering relocating its facilities in the Town to a new location outside of the State of New York which relocation would significantly reduce operating costs to the Company.

Section 2. Based on the evaluation of the foregoing evaluation criteria, (a) The Agency hereby finds and determines that (i) the Project constitutes a "Project" within the meaning of the Act; (ii) the Project is necessary for the Company to preserve its competitive position in its industry; and (iii) the granting of mortgage recording tax abatements, real property tax abatements and sales and use tax abatements (collectively the "Financial Assistance") by the Agency with respect to the Facility pursuant to the Act, will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the Town of Babylon, New York and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act.

(b) It is desirable and in the public interest for the Agency to grant Financial Assistance to the Company and the Owner with respect to the Project.

(c) The Agency shall grant Financial Assistance to the Owner in the form of New York State and local Sales and Use Tax abatements as provided in the Lease Agreement

and in the event of the occurrence of a recapture event under the Lease Agreement the Agency will pursue recapture of Financial Assistance as provided in the Lease Agreement.

Section 3. To accomplish the purposes of the Act, the Agency as the current owners of the Facility will cause the transfer of the Facility to the Owner and the Owner will lease the Facility to the Agency pursuant to the Company Lease Agreement. The Agency will assist the Owner and Company to undertake the Project and will lease the Facility to the Owner pursuant to the Lease Agreement. The Owner will sublease the Facility to the Company pursuant to the Sublease Agreement.

Section 4. Pursuant to the Lease Agreement and Sublease Agreement, the Owner or the Company on behalf of the Owner shall make certain payments in lieu of real property taxes (“Pilots”) which would be otherwise due and payable with respect to the Facility.

Section 5. In order to provide the Owner and the Company with financial assistance with respect to exemption from New York State and local Sales and Use Taxes with respect to the Project the Agency may issue to the Owner’s agents certain sale tax authorization letters (“Sales Tax Authorization Letters”) which shall be used pursuant to the terms contained therein and in the Lease Agreement.

Section 6. In order to secure amounts to be loaned by a mortgage lender acceptable to the Chief Executive Officer (“CEO”) of the Agency or any other authorized representative to the Owner with respect to the Project, the Agency hereby authorizes the execution of one or more mortgages (collectively, the “Mortgages”) granted at the initial closing of the “straight lease” transaction or any time thereafter during the term of the Lease Agreement, from the Agency and the Owner to Peoples United Bank and/or any other mortgage lender acceptable to the CEO of the Agency or any other authorized representative, in form acceptable to the CEO of the Agency or any other authorized representative and Counsel to the Agency.

Section 7. The form and substance of the Company Lease Agreement in substantially the form previously approved by the Agency for other “straight lease” transactions is hereby approved.

Section 8. The form and substance of the Lease Agreement in substantially the form previously approved by the Agency for other “straight lease” transactions is hereby approved.

Section 9. The form and substance of the Sublease Agreement in substantially the form previously executed for other “straight lease” transactions is hereby approved.

Section 10. The CEO of the Agency or any successor CEO of the Agency or any other authorized representative, is hereby authorized, on behalf of the Agency, to execute and deliver final forms of the Company Lease Agreement, the Lease Agreement, Sales Tax Authorization Letters, the Mortgages and any other agreements or certificates consistent herewith (hereinafter collectively called the “Agency Documents”), all in substantially the forms previously executed by the Agency for other “straight lease” transactions acceptable to Agency Counsel, with such changes, variations, omissions and insertions in the Agency Documents as the CEO of the Agency or any other authorized representative of the Agency shall upon advice of counsel

approve. The execution thereof by the CEO of the Agency or any other authorized representative shall constitute conclusive evidence of such approval.

The CEO of the Agency or any other authorized representative are further hereby authorized, on behalf of the Agency, to designate any additional authorized representatives including the Chairman, the Secretary or Assistant Secretary of the Agency, to execute any Agency Documents or certificates of the Agency authorized pursuant to this Resolution and determine the terms of the Agency Documents.

The Secretary, Assistant Secretary or Counsel to the Agency is hereby authorized to attest to the CEO's or any other authorized representative's signature on the foregoing documents and to impress or affix the seal or facsimile seal of the Agency thereto to the extent required in the Agency Documents.

Section 11. The CEO of the Agency or any other authorized representative, the Chief Financial Officer ("CFO") of the Agency, the Chairman or the Secretary and any member of the Agency (as used in this resolution, the "Authorized Representatives") are hereby designated the authorized representatives of the Agency and each of them is hereby authorized and directed to cause the transactions as described in the Company Lease Agreement, Lease Agreement and the Sublease Agreement to be undertaken and in relation thereto, to execute and deliver any and all papers, instruments, agreements, opinions, certificates, affidavits and other documents, and to do and cause to be done any and all acts and things necessary or proper for carrying out this resolution, and the Agency Documents including such changes or revisions in the forms of such documents as may be requested by counsel to the Agency.

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, agreements 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. All covenants, stipulations, obligations and agreements of the Agency contained in this resolution, and the Agency Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Agency and its successors from time to time and upon any board or body to which any powers or duties, affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Agency or the members thereof by the provisions of this resolution, and the Agency Documents shall be exercised or performed by the Agency or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

Section 14. No covenant, stipulation, obligation or agreement contained in this resolution, or the Agency Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency or the Town of Babylon in his or their individual capacity and neither the members of the Agency nor any officer shall be liable personally on the Agency Documents or be subject to any personal liability or accountability by reason of the execution thereof.

Section 15. The law firm Winston & Strawn LLP is hereby appointed transaction counsel to the Agency for this transaction.

Section 16. In accordance with SEQRA, the Agency finds that this proposed action will not have any significant environmental impacts based upon the following:

- (a) The proposed action will not result in a substantial adverse change in existing air quality, traffic or noise levels.
- (b) The proposed action is consistent with existing zoning at the site of the Facility.
- (c) The proposed action will not result in the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character.
- (d) The proposed action will not result in the creation of a hazard to human health.

(e) No other significant effects upon the environment that would require the preparation of an Environmental Impact Statement are foreseeable

Section 17. Notwithstanding the foregoing, the Agency will not grant any Financial Assistance to be granted hereunder in excess of \$100,000 to either of the Company or the Owner until the Agency has held a public hearing with respect to the grant of financial assistance in accordance with the provisions of the Act.

Section 18. This resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

The resolution was thereupon declared duly adopted.

Adopted: October 11, 2016

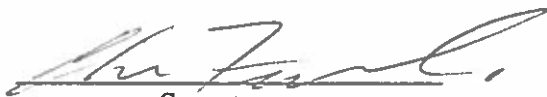
STATE OF NEW YORK)
) ss.:
COUNTY OF SUFFOLK)

I, Chris Feencsik, the duly elected, qualified Secretary of the Town of Babylon Industrial Development Agency (the "Agency"), hereby certify that:

1. The foregoing is a true, correct and complete copy of the record of proceedings of the Agency had and taken at a lawful meeting of the Agency held at the Law Offices of John Braslow, 816 Deer Park Avenue, North Babylon, New York on October 11, 2016, commencing at the hour of 8:00 A.M., as recorded in the regular official book, of the proceedings of the Agency, those proceedings were duly had and taken as shown therein.

2. All members of the Agency and the public were duly notified of that meeting pursuant to law.

IN WITNESS WHEREOF, I have signed this certificate and affixed the seal of the Agency the 11th day of October, 2016.


Secretary

(SEAL)