

RESOLUTION AUTHORIZING AN AMENDMENT TO PROJECT DOCUMENTS RELATING TO THE PIPING ROCK HEALTH PRODUCTS, LLC PROJECT

WHEREAS, on August 16, 2011, the Town of Babylon Industrial Development Agency (the "Agency") adopted a resolution having the following caption:

RESOLUTION GRANTING APPROVAL OF AND AUTHORIZING THE GRANT OF CERTAIN FINANCIAL ASSISTANCE BY THE TOWN OF BABYLON INDUSTRIAL DEVELOPMENT AGENCY TO 51 EXECUTIVE REALTY, LLC AND PIPING ROCK HEALTH PRODUCTS, LLC IN CONNECTION WITH THE ACQUISITION, RENOVATION AND EQUIPPING BY 51 EXECUTIVE REALTY, LLC OF AN OFFICE, MANUFACTURING, WAREHOUSE AND DISTRIBUTION FACILITY IN THE TOWN OF BABYLON

WHEREAS, on October 21, 2011 the Agency entered into a straight lease transaction with 51 Executive Realty, LLC ("Lessee") and Piping Rock Health Products, LLC ("Sublessee") pursuant to which the Agency granted Lessee and Sublessee financial assistance in the form of among others, exemptions from real property taxes and state and local sales and use taxes in accordance with a Lease Agreement, between the Agency and Lessee dated October 21, 2011, as amended on December 31, 2012 (the "Lease Agreement"), a Sublease Agreement, between Lessee and Sublessee dated October 21, 2011 (the "Sublease Agreement") and a Sales Tax Letter, dated October 21, 2011 (the "Sales Tax Letter"), from the Agency to Lessee and Sublessee (collectively, the "Companies"); and

WHEREAS, the Companies have been delayed in commencement of their Project and have not yet commenced their real estate tax abatement, and Companies have not made any claim for state and local sales and use taxes exemptions; and

WHEREAS, the Sales Tax Letter expired on October 21, 2014; and

WHEREAS, the Company have now begun work on the Project and have requested that (i) the first year of their PILOT under Section 4.3 of the Lease Agreement commence with the Tax Year of the Town commencing December 1, 2017, with the first Tax Year running from December 1, 2017 and ending the following November 30, 2018, with the abatement terminating on February 28, 2033 and (ii) the term of the Sales Tax Letter be reinstated and extended to March 22, 2019 with respect to the Project in order to enable the Companies to avail themselves of three years of New York State Sales and Use Tax exemptions; and

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

Section 1. In order to provide the Companies with financial assistance with respect to exemptions from real property taxes and state and local sales and use taxes with respect to the Project the Agency authorizes the amendment of the Lease Agreement and Sales Tax Letter as shall be necessary to accomplish the foregoing.

Section 2. Matthew McDonough as Chief Executive Officer or any successor Chief Executive Officer (the “Chief Executive Officer”) or any other Authorized Representative, is hereby authorized, on behalf of the Agency, to execute and deliver final forms of amendments to the Lease Agreement, the Sales Tax Letter and any other agreements or certificates consistent herewith (hereinafter collectively called the “Amended Documents”), all in form acceptable to the Agency upon the advice of counsel to the Agency. The execution thereof by the Chief Executive Officer shall constitute conclusive evidence of the approval of the Amended Documents.

The Chief Executive Officer or any other Authorized Representatives 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 Amended Documents or certificates of the Agency authorized pursuant to this Resolution and determine the terms of the Amended Documents.

The Secretary, Assistant Secretary or Counsel to the Agency is hereby authorized to attest to the Chief Executive Officer’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.

Section 3. 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 Amended 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 Amended Documents binding upon the Agency.

Section 4. All covenants, stipulations, obligations and agreements of the Agency contained in this resolution, and the Amended 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 Amended 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 5. No covenant, stipulation, obligation or agreement contained in this resolution, or the Amended 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 Amended Documents or be subject to any personal liability or accountability by reason of the execution thereof.

Section 6. Notwithstanding the foregoing, the Agency will not grant any Financial Assistance (as such term is defined in the Act) in excess of \$100,000 to either of the Sublessee or the Lessee until the Agency has held a public hearing with respect to the Project in accordance with the provisions of the Act.

Section 7. 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: March 22, 2016

