

RESOLUTION AUTHORIZING AN AMENDMENT TO PROJECT DOCUMENTS RELATING TO THE POSILICO MATERIALS LLC PROJECT TO REINSTATE AND EXTEND THE NEW YORK STATE AND LOCAL SALES AND USE TAX EXEMPTION FOR THE PROJECT

WHEREAS, on November 14, 2017, the Agency adopted a resolution granting approval of and authorizing the grant of certain financial assistance by the Agency to 1750 New Highway, LLC, DMJ Associates LLC, Farmingdale Properties LLC (the "Owners") and Posillico Materials, LLC (the "Sublessee") for the undertaking of a "project" (within the meaning of the Act) (the "Project") located on those certain lots, pieces or parcels of land at 1600 New Highway, 1610 New Highway and 1750 New Highway in Farmingdale, New York 11735 (the "Project Land"), consisting of the demolition of an existing 27,440 square foot warehouse/office structure, removal of existing sheeting and other site improvements, the excavation of 81,768 cubic yards of material from a +/- twenty foot cut and installation of proposed sheeting and gravity block retaining wall, construction of a new approximately 2,700 square foot storage garage and plant control room, the construction and equipping of approximately 25,000 square foot covered contaminated material storage shed, construction of a concrete equipment pad, the acquisition and installation of soil wash plant and water treatment equipment, and the installation of a 1.4MW combined heat and power fuel cell plant (including all equipment and personalty (the "Facility Equipment") relating to the foregoing) and any other improvements made to the Project Land relating to the foregoing (collectively, the "Facility") all for use by the Sublessee as a solid waste management facility, and fuel cell plant, in the expansion of the Sublessee's engineering, general contracting and asphalt manufacturing business; and

WHEREAS, on May 24, 2018 the Agency entered into a straight lease transaction with the Owners pursuant to which the Agency granted the Owners and the Sublessee financial assistance in the form of among others, exemptions from real property taxes, mortgage recording tax and New York State and local sales and use taxes in accordance with Amended and Restated Lease Agreements, between the Agency and each of the Owners each respectively dated May 24, 2018 (the "Lease Agreements"); and

WHEREAS, the New York State and local sales tax exemption for the Project and the Facility expired on May 24, 2020 (the "Sales Tax Exemption Expiration Date") and completion of the Project has been delayed due to the COVID-19 Pandemic and the Owners and the Sublessee desire to extend the completion date for the Project and reinstate the New York State and local sales and use tax exemption for the Project from the Sales Tax Exemption Expiration Date to December 31, 2020; and

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

Section 1. In order to provide the Owners and the Sublessee with financial assistance with respect to exemptions from New York State and local sales and use taxes with respect to the Project and the Facility, the Agency authorizes the amendment of the Lease Agreements and any Sales Tax Authorization Letter relating thereto (each a "Sales Tax Letters") as shall be necessary

to accomplish the foregoing including extending the completion date for the Project to December 31, 2020, reinstating the New York State and local sales and use tax exemption and extending the Sales Tax Exemption Expiration Date from May 24, 2020 to December 31, 2020 thereby permitting the Agency to grant to the Owners New York State and local sales and use tax exemptions for the extended period.

Section 2. Thomas E. Dolan as Chief Executive Officer (the "CEO") or any other Authorized Representative, is hereby authorized, on behalf of the Agency, to execute and deliver final forms of amendments to the Lease Agreements, the Sales Tax Letters 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 CEO shall constitute conclusive evidence of the approval of the Amended Documents.

The CEO 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 ("Authorized Representatives"), 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. This resolution shall take effect immediately.

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

I, Paullette L. Mosas, the duly elected, qualified and acting 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 remotely on July 15, 2020 through a video conference link and a call-in number pursuant to Executive Order 202.1 (2020), issued by the Governor of the State of New York, 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, the meeting shown therein was duly held, and the persons named therein were present at that meeting 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 this 15 day of July, 2020.

Paullette L. Mosas
Secretary, Town of Babylon Industrial Development
Agency

(SEAL)