

AGENDA

June 26, 2024

1. Call to Order

2. Roll Call

3. Pledge of Allegiance

4. Resolution # 1

Accept the minutes from the IDA/IDC Board Meeting of May 22, 2024.

5. Resolution # 2

Resolution approving a fee increase for Zimmerman Edelson.

6. Resolution # 3

Resolution adopting the amendment to the Town of Babylon Industrial Development Agency's Fee Policy.

7. Resolution # 4

Accept the minutes from the Thor 377 Carlls Path L.L.C public hearing on June 25, 2024.

8. Resolution # 5

Resolution permitting the termination of lease and authorizing the Chief Executive Officer to deliver a Bargain and Sale Deed without Covenant conveying the premises located at 575 Broadhollow Road, Farmingdale, New York 11735 (SCTM# 0100 094.00 02.00 001.000), to Nash Broadhollow Capital, L.L.C.

9. Resolution # 6

Resolution of the Town of Babylon Industrial Development Agency authorizing the Chief Executive Officer to hold a public hearing regarding a proposed project to be undertaken for the benefit of L.I Adventureland, Inc.

10. Resolution # 7

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Resolution granting approval of and authorizing the grant of certain financial assistance by the Town of Babylon Industrial Development Agency to Thor 377 Carlls Path LLC in connection with the acquisition, demolition, construction and equipping of a warehouse and distribution facility.

11. Resolution # 8

Resolution amending an existing resolution dated August 23, 2023, to modify the project description and the financial assistance granted by the Town of Babylon Industrial Development Agency to Educational Bus Transportation Inc., E.B.T., Inc. and Babylon Bus Lot Property LLC

12. Chief Executive Officer's report

13. Old Business

14. New Business

15. Adjournment

BABYLON INDUSTRIAL DEVELOPMENT AGENCY

IDA/IDC MEETING MINUTES

May 22, 2024

Present: Tom Gaulrapp, Chairman
Paulette LaBorne, Secretary
William Bogardt
William Celona
Rosemarie Dearing
Marcus Duffin
Vincent Piccoli
Carol Quirk

Present Virtual: Justin Belkin, Vice Chairman
(Non-Voting)

Also Present: Thomas Dolan, TOBIDA Chief Executive Officer
Frank Dolan, TOBIDA Chief Operations Officer
Gregory Heilbrunn, Special Projects Manager
William Wexler, Agency Counsel
Joseph Ninomiya, LDCII Chief Executive Officer

A quorum being present, the meeting was called to order at 8:09 A.M.

A motion was made by Rosemarie Dearing and seconded by Carol Quirk in favor of a resolution to accept the minutes from the April 24, 2024 IDA/IDC Board meeting. All in favor, motion carries.

A motion was made by Rosemarie Dearing and seconded by Marcus Duffin in favor of a resolution granting approval of and authorizing the grant of certain financial assistance by the Town of Babylon Industrial Development Agency to Alegria North, LLC in connection with the acquisition, demolition, construction, furnishing and equipping of a 100% affordable commercial multi-family residential rental housing facility in the Town of Babylon. All in favor, motion carries.

A motion was made by Carol Quirk and seconded by Rosemarie Dearing in favor of a resolution permitting the termination of lease and authorizing the Chief Executive Officer to deliver a Bargain and Sale Deed without Covenant conveying the premises located at 1966 Broadhollow Road, Farmingdale, New York 11735 (SCTM# 0100 033.00 01.00 012.000), to JMDH Real Estate of Babylon, LLC. All in favor, motion carries.

CEO Report

Mr. Dolan began the report by informing the board that following the meeting he will be travelling to Cooperstown, NY for the 2024 New York State Economic Development Council (NYSEDC) Annual Meeting. Mr. Dolan believes attending the annual meeting allows him to meet with Agency partners in economic development and learn from the practices of other organizations across the state. Mr. Dolan then spoke about his attendance at a ribbon cutting event for Avalon Bay Apartments on May 21st, where the Agency received acknowledgement for working with Avalon Bay and the business summit on housing which was recently hosted by the Agency. Mr. Dolan continued the report by telling board members that the Wounded Warriors Soldier Ride will be July 19th and that the Agency wishes to raise thousands of dollars for the event, as has been done in the prior years. Finally, Mr. Dolan ended the report by telling board members that he sits on the Advisory Council for Western BOCES where he sees the important work students do.

Old Business

No old business

New Business

No new business.

A motion was made by Paulette LaBorne and seconded by William Bogardt to adjourn the meeting. All in favor, motion carries.

****Resolution No. 2****

****TOWN OF BABYLON INDUSTRIAL DEVELOPMENT AGENCY****

****BOARD OF DIRECTORS****

****Resolution Approving Fee Increase for Zimmerman Edelson****

WHEREAS, the Town of Babylon Industrial Development Agency ("the Agency") has engaged the services of Zimmerman Edelson for various professional services; and

WHEREAS, Zimmerman Edelson has requested an increase in their monthly fee for services rendered to the Agency; and

WHEREAS, the Board of Directors has reviewed the request and finds the proposed fee increase to be reasonable and justified;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Town of Babylon Industrial Development Agency as follows:

1. ****Approval of Fee Increase****: The Board of Directors hereby approves the fee increase for Zimmerman Edelson to a new amount of \$2,000 per month.
2. ****Authorization to Execute****: The Board of Directors authorizes the Chairperson, Executive Director, or their designee to execute any necessary documents to effectuate this fee increase and to take any other action necessary to implement this resolution.
3. ****Effective Date****: This resolution shall take effect immediately upon its adoption.

Adopted this ___ day of _____, 20__.

****Board of Directors:****

Thomas Gaulrapp, Chairperson

Paulette LaBorne, Secretary

Attested by:

Paulette LaBorne, Secretary

****Certification****

I, the undersigned, Secretary of the Town of Babylon Industrial Development Agency, hereby certify that the foregoing resolution was duly adopted by the Board of Directors at a meeting held on the ___ day of _____, 20__, at which a quorum was present and voting throughout.

Paulette LaBorne, Secretary

June 26, 2024

Babylon Industrial Development Agency

RESOLUTION: Resolution adopting the amendment to the Town of Babylon Industrial Development Agency's Fee Policy.

NOW, THEREFORE, BE IT

RESOLVED, that the Town of Babylon Industrial Development IDA/IDC Board has adopted the Town of Babylon Industrial Development Agency's Fee Policy.

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

	<i>Yea</i>	<i>Nea</i>	<i>Absent</i>	<i>Abstain</i>
Thomas Gaulrapp	[]	[]	[]	[]
Justin Belkin	[]	[]	[]	[]
William Bogardt	[]	[]	[]	[]
Bill Celona	[]	[]	[]	[]
Rosemarie Dearing	[]	[]	[]	[]
Marcus Duffin	[]	[]	[]	[]
Paulette Laborne	[]	[]	[]	[]
Carol Quirk	[]	[]	[]	[]
Vincent Piccoli	[]	[]	[]	[]

The Resolution was there upon declared adopted.

Dated: June 26, 2024

TOWN OF BABYLON INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Secretary

(SEAL)

Fee Policy Addendum for Town of Babylon Industrial Development Agency

1. Introduction

This Fee Policy Addendum outlines the updated fee structure for new types of projects seeking assistance from the Town of Babylon Industrial Development Agency (IDA) Board of Directors. In addition to the existing fee policy, this addendum addresses the fee structure for projects involving equipment investment and industrial condo space construction.

2. Fee Structure

2.1 Acquisition and Hard Costs Fee:

- For projects involving the purchase of a building and associated investments, the IDA fee remains at 1.25% of acquisition and hard costs.

2.2 Savings Fee:

- The IDA fee for savings remains at 1% of the total savings realized from the IDA's assistance, including real property taxes, sales and use taxes, and mortgage recording tax savings.

2.3 New Projects Fee Structure:

2.3.1 Equipment Investment:

- For projects solely involving equipment investment and availing the sales tax break, the IDA fee will be 1% of the equipment purchase plus 1% of savings.

2.3.2 Industrial Condo Space Construction:

- For projects involving the construction of industrial condo space, the fee structure will vary based on the stage of development and tenant occupancy.
 - **Initial Construction Fee:** The IDA will collect a fee equivalent to 1.25% of acquisition and hard
 - **Tenant Occupancy Fee:** As tenants move into the space and avail themselves of real property and sales tax abatements, the IDA will collect an additional fee from each tenant. This fee will be equivalent to 1% of the savings realized from the IDA's assistance to the tenant plus an established flat fee per unit.

3. Conclusion

This Fee Policy Addendum will need to be approved by the Town of Babylon Industrial Development Agency Board of Directors and shall be effective immediately. All future projects seeking assistance from the IDA shall adhere to this updated fee structure.

Town of Babylon Industrial Development Agency
Thor 377 Carlls Path LLC
June 25, 2024

Present: Thomas Dolan, Chief Executive Officer
Gregory Heilbrunn, Special Projects Manager
David Batkiewicz, Compliance Consultant

No one from the public was in attendance.

Public hearing called to order at 1:00 P.M.

Thomas Dolan read a summary of the public hearing legal notice that was published in the Nassau and Suffolk Editions of Newsday on Saturday, June 15, 2024.

With no members of the public in attendance, there were no requests to speak.

The public hearing was closed by Thomas Dolan at 1:03 P.M.

June 26, 2024

Town of Babylon Industrial Development Agency

Resolution: permitting the termination of lease and authorizing the Chief Executive Officer to deliver a Bargain and Sale Deed without Covenant conveying the premises located at 575 Broad Hollow Road, Farmingdale, New York 11735 (SCTM# 0100 094.00 02.00 001.000), to Nash Broadhollow Capital LLC.

Now Therefore, Be It

Resolved, that the Town of Babylon IDA Board has approved a resolution permitting the termination of lease and authorizing the Chief Executive Officer to deliver a Bargain and Sale Deed without Covenant conveying the premises located at 575 Broad Hollow Road, Farmingdale, New York 11735 (SCTM# 0100 094.00 02.00 001.000), to Nash Broadhollow Capital LLC.

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

Table with 5 columns: Name, Yea, Nea, Absent, Abstain. Rows include Tom Gaulrapp, Justin Belkin, William Bogart, Bill Celona, Rosemarie Dearing, Marcus Duffin, Paulette LaBorne, Vincent Piccoli, and Carol Quirk.

The resolution was there upon declared adopted.

Adopted: June 26, 2024

(SEAL)

TOWN OF BABYLON INDUSTRIAL DEVELOPMENT AGENCY

By:

**RESOLUTION OF THE TOWN OF BABYLON
INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING
THE CHIEF EXECUTIVE OFFICER TO HOLD A PUBLIC
HEARING REGARDING A PROPOSED PROJECT TO BE
UNDERTAKEN FOR THE BENEFIT OF L.I.
ADVENTURELAND, INC.**

WHEREAS, the Town of Babylon Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 177 of the Laws of 1973 of New York, as amended, constituting Section 907-a of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, renovating, improving, maintaining, equipping and furnishing of, among others, manufacturing, warehousing, research, commercial or industrial facilities, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install "projects" (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, L.I. Adventureland, Inc., a New York corporation, on behalf of itself and/or entities formed or to be formed by it or on its behalf (the "Company"), submitted an application (the "Application") to the Agency, a copy of which was presented at this meeting and copies of which are on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") on behalf of the Company consisting of the following: (A)(1) the acquisition of an interest in approximately 15 acres of real estate located at 2245 Broadhollow Road, East Farmingdale (Tax Map #0100-003.00-01.00-004.014) in the Town of Babylon, Suffolk County, New York (the "Land"), including the existing buildings and amusement park facilities located thereon (the "Existing Improvements"); (2) the construction, equipping and furnishing of a new approximately 1,200 square foot building and the undertaking of various site improvements to the Land and the Existing Improvements, including acquisition and installation of additional and/or replacement amusement park rides, and related infrastructure updates, sitework and major landscaping, all to be located on the Land (the "Improvements"); and (3) the acquisition and installation therein and thereon of various machinery, equipment and other personal property (the "Equipment" and, together with the Land, the Existing Improvements and the Improvements, the "Facility"), which Facility is to be leased and subleased by the Agency to the Company for its business as an operator of an amusement park; (B) the granting of certain "financial assistance" (within the meaning of section 854(14) of the Act) with respect to the foregoing limited to potential exemptions from certain sales and use taxes, mortgage recording taxes (except as limited by Section 874 of the Act), transfer taxes and real property taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or

sale of the Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, pursuant to Section 859-a of the Act, prior to the Agency providing any "financial assistance" (as defined in the Act) of more than \$100,000 to any project, the Agency, among other things, must hold a public hearing pursuant to Section 859-a of the Act with respect to said project; and

WHEREAS, the Agency desires to comply with the public hearing and notice requirements contained in Section 859-a of the Act; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act"), and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), the Agency has not yet made a determination as to the potential environmental significance of the Project and therefore has not yet determined whether an environmental impact statement is required to be prepared with respect to the Project;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN OF BABYLON INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Agency hereby authorizes the Chairman, the Vice Chairman, the Chief Executive Officer ("CEO") or the Chief Financial Officer of the Agency (each an "Authorized Representative"), after consultation with the members of the Agency and counsel to the Agency, (A) to establish the time, place and date for a public hearing of the Agency to hear all persons interested in the location and nature of the Facility and the proposed Financial Assistance being contemplated by the Agency with respect to the Project, said public hearing to be held, as appropriate, in the city, town or village where the Facility is or is to be located; (B) to cause notice of such public hearing to be given to the public by publishing a notice of such hearing in a newspaper of general circulation available to the residents of the governmental units where the Facility is or is to be located, such notice and publication to comply with the requirements of Section 859-a of the Act; (C) to cause notice of said public hearing to be given to the chief executive officer of the county and each city, town, village and school district in which the Facility is or is to be located to comply with the requirements of Section 859-a of the Act; (D) to conduct such public hearing; and (E) to cause a report of said public hearing fairly summarizing the views presented at said public hearing to be promptly prepared and cause copies of said report to be made available to the members of the Agency.

Section 2. The Agency hereby authorizes the CEO or any other Authorized Representative of the Agency, prior to the granting of any Financial Assistance with respect to the Project, if the Project involves the removal or abandonment of a facility or plant within the State, after consultation with counsel to the Agency, to cause any required notification by the Agency to the chief executive officer or officers of the municipality or municipalities in which such facility or plant was located, such notification to comply with the requirements of Section 874(5)(d) of the Act.

Section 3. The Authorized Representatives are each hereby authorized and directed to (A) (i) distribute copies of this Resolution to the Company and (ii) deliver or cause to be delivered a copy of this Resolution by certified mail, return receipt requested or an electronic correspondence with a read-receipt, to the chief executive officer of each affected local taxing jurisdiction (including the district clerk and district superintendent of each affected school district), such delivery to comply with the requirements of Section 859-a of the Act; and (B) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 4. Barclay Damon LLP is hereby appointed transaction counsel to the Agency with respect to all matters in connection with the Project. Transaction counsel for the Agency is hereby authorized, at the expense of Company, to work with the Company, Counsel to the Company, counsel to the Agency and others to prepare, for submission to the Agency, all documents necessary to effect the authorization of the transactions contemplated by this Resolution.

Section 5. 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:

RESOLUTION GRANTING APPROVAL OF AND AUTHORIZING THE GRANT OF CERTAIN FINANCIAL ASSISTANCE BY THE TOWN OF BABYLON INDUSTRIAL DEVELOPMENT AGENCY TO THOR 377 CARLLS PATH LLC, IN CONNECTION WITH THE ACQUISITION, DEMOLITION, CONSTRUCTION AND EQUIPPING OF A WAREHOUSE AND DISTRIBUTION FACILITY

WHEREAS, the Town of Babylon Industrial Development Agency (the “**Agency**”) is authorized under the laws of the State of New York (the “**State**”), 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, New York (the “**Town**”); and

WHEREAS, representatives of Thor 377 Carlls Path LLC, a limited liability company organized and existing under the laws of the State of Delaware (on behalf of itself and/or the principals of Thor 377 Carlls Path LLC and/or any entity or entities formed on behalf of Thor 377 Carlls Path LLC or any of the foregoing (collectively, the “**Company**”)) have filed or caused to be filed an application with the Agency concerning a project (the “**Project**”) consisting of (i) the acquisition and demolition of an approximately 189,500 square foot existing building, and (ii) the construction and equipping thereon of an approximately 310,500 square foot warehouse and distribution facility to be located on that certain approximately 22.676 acre lot, piece or parcel of land generally known as 377 Carlls Path, in Deer Park, New York 11729 (the “**Land**”) and the acquisition and installation of certain equipment, furnishings and personal property therefor (the “**Facility Equipment**”), all for use as a warehousing and distribution facility by one or more tenants yet to be determined (the Land, Improvements, including construction, renovation and reconstruction thereof, and the Facility Equipment, collectively the “**Facility**”); and

WHEREAS, in order to induce the Company to proceed with the Project and to provide the Town with new modern warehouse and distribution facilities thereby to promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the Town and improve their standard of living, and thereby serve the public purposes of the Act, it appears necessary for the Agency to assist the Company by taking leasehold title to the Facility so as to afford the Company of certain relief from sales and use taxation and mortgage recording taxation with respect to the Facility; and

WHEREAS, it is contemplated that the Company will cause the lease of the Land and any improvements thereon to the Agency pursuant to a Company Lease Agreement (the “**Company Lease**”) and the Agency will assist the Company to undertake the Project and will sublease the Facility to the Company pursuant to a Lease and Project Agreement (the “**Lease Agreement**”), by and between the Company and the Agency pursuant to which the Company agrees, among other things, to make lease payments in such amounts as specified in the Lease Agreement; 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; (ii)

reviewed the Agency's written cost benefit analysis for the Project 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 Project Application, as amended, the Company is in substantial compliance with the Act; and

WHEREAS, it is desired that the Agency authorize the granting of certain financial assistance to the Company in connection with the Project and the Facility including exemption from New York State and local Sales and Use Taxes and mortgage recording 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/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 building acquisition, construction, machinery and equipment and capital improvements in the Facility of approximately \$112,000,000.

(c) The annual salary range for the jobs to be created by one or more future tenants of the Facility yet to be determined is estimated to be \$50,000 – 75,000 per year for management positions, \$50,000 – 75,000 per year for professional positions, \$30,000 – 50,000 per year for administrative positions, \$30,000 – 50,000 per year for production positions, \$50,000 – 75,000 per year for supervisor positions and \$15 – 19 an hour for laborer positions. The Company expects approximately three hundred fifty (350) full time and one hundred (100) part time temporary construction jobs to be created during the first year of construction and fifty (50) full time and ten (10) part time temporary construction jobs to be created during the second year of construction.

(d) The Project will not have significant impact from local labor construction in the Town.

(e) The Project will not have a significant effect on in-region purchases or research and development.

(f) The Project will not have a significant effect on energy efficiency.

(g) The Project will provide new modern warehouse and distribution facilities in the Town. If the Company does not receive financial assistance from the Agency the Company will pursue other opportunities for the development of warehouse and distribution facilities in other jurisdictions where building and operating costs are lower than in Suffolk County.

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 to provide new modern warehouse and distribution facilities in the Town; and (iii) the granting of sales and use tax abatements and mortgage recording tax abatements (collectively, the "**Financial Assistance**") by the Agency with respect to the Project and the Facility pursuant to the Act, will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the Town and the State 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 the Financial Assistance to the Company with respect to the Project and the Facility.

(c) The Agency shall grant Financial Assistance to the Company in the form of New York State and local Sales and Use Tax abatements in a maximum amount not to exceed \$4,398,750 as provided in Section 5.2 of the Lease Agreement and in the event of the occurrence of a recapture event under the Lease Agreement the Agency will pursue recapture of the Financial Assistance as provided in Section 5.4 of the Lease Agreement.

Section 3. To accomplish the purposes of the Act, the Agency shall take leasehold title to the Facility pursuant to the Company Lease, assist the Company to undertake the Project and sublease the Facility to the Company pursuant to the Lease Agreement.

Section 4. In order to provide 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 one or more Sales Tax Agent Authorization Letters ("**Sales Tax Authorization Letters**") which shall be used pursuant to the terms contained therein and in the Lease Agreement.

Section 5. In order to secure amounts to be loaned by any mortgage lender acceptable to the Chief Executive Officer ("**CEO**") or the Chief Financial Officer ("**CFO**") of the Agency to the Company with respect to the financing or refinancing of the Project and the Facility, the Agency hereby authorizes the execution of one or more mortgages (if any) (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 Company or the Agency and the Company to any mortgage lender acceptable to the CEO or the CFO of the Agency or any other authorized representative, in form acceptable to the CEO or CFO of the Agency or any other authorized representative and counsel to the Agency.

Section 6. The form and substance of the Company Lease in substantially the form previously executed for other "straight lease" transactions is hereby approved.

Section 7. The form and substance of the Lease Agreement in substantially the form previously executed for other "straight lease" transactions is hereby approved.

Section 8. Thomas E. Dolan, as CEO of the Agency or any successor CEO or any other Authorized Representative, is hereby authorized, on behalf of the Agency, to execute and deliver final forms of the Company Lease, Lease Agreement, Mortgages, Sales Tax Agent Authorization Letters, 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 or any other Authorized Representative of the Agency shall upon advice of counsel approve. The execution thereof by the CEO or any other Authorized Representative of the Agency shall constitute conclusive evidence of such approval.

The CEO or CFO 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, the CFO’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 9. The CEO of the Agency, the CFO of the Agency or any other authorized representative including 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 and the Lease 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 10. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments, 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 11. 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 12. 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 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 13. The law firm Katten Muchin Rosenman LLP is hereby appointed transaction counsel to the Agency for this transaction.

Section 14. Notwithstanding the foregoing, the Agency will not grant any Financial Assistance to be granted hereunder in excess of \$100,000 to the Company 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 15. The Planning Board of the Town of Babylon, as lead agency, pursuant to the State Environmental Quality Review Act (SEQRA) (Article 8 of the Environmental Conservation law) and implementing regulations contained in 6 N.Y.C.R.,R., part 617 adopted the findings in Resolution No. 2024-023 with respect to the Facility and the Project as set forth in Exhibit A attached hereto which are incorporated by reference herein. The Agency hereby adopts such findings.

Section 16. This resolution shall take effect immediately.

**RESOLUTION AMENDING AN EXISTING RESOLUTION DATED AUGUST 23, 2023
TO MODIFY THE PROJECT DESCRIPTION AND THE FINANCIAL ASSISTANCE
GRANTED BY THE TOWN OF BABYLON INDUSTRIAL DEVELOPMENT AGENCY
TO EDUCATIONAL BUS TRANSPORTATION INC., E.B.T., INC. AND BABYLON
BUS LOT PROPERTY LLC**

WHEREAS, the Town of Babylon Industrial Development Agency (the “**Agency**”) adopted a resolution on August 23, 2023 (the “**Authorizing Resolution**”) having the following title: “RESOLUTION GRANTING APPROVAL OF AND AUTHORIZING THE GRANT OF CERTAIN FINANCIAL ASSISTANCE BY THE TOWN OF BABYLON INDUSTRIAL DEVELOPMENT AGENCY TO EDUCATIONAL BUS TRANSPORTATION INC., E.B.T., INC. AND BABYLON BUS LOT PROPERTY LLC IN CONNECTION WITH THE IMPROVEMENT OF A BUS DEPOT AND MAINTENANCE FACILITY”; and

WHEREAS, Educational Bus Transportation, Inc. and E.B.T., Inc. (collectively, the “**Company**”) and Babylon Bus Lot Property 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**”), now desire to modify (i) the description of the Project and remove the 115 & 117-119 Lamar Street parcel and (ii) the Financial Assistance granted by the Agency to (a) remove the mortgage recording taxes exemption, as the Company and Owner will no longer be obtaining financing for the Project, and (b) modify the amount of New York State and local Sales and Use Tax abatements, as the cost of goods and services related to the Project that are subject to such tax have decreased; and

WHEREAS, the Agency is authorized under the laws of the State of New York (the “**State**”), 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, New York (the “**Town**”); and

WHEREAS, on September 24, 2010 the Agency entered into a straight lease transaction (as that term is defined under the Act) with the Lessee for the benefit of the Company and the Owner in order to provide financial assistance with respect to a project (the “**Original Project**”) located at 63, 73 and 85 Lamar Street and 70 and 76 Mahan Street, West Babylon, New York 11704 consisting of the acquisition by the Agency by deed of a 3.48 acre parcel of land and renovation and equipping of the approximately 28,000 square foot school bus depot, office and vehicle maintenance repair facility situated thereon all for use by the Company in its school bus transportation business (the “**Original Facility**”) and in accordance with such straight lease transaction, the Agency and the Lessee entered into a Lease Agreement (the “**Original Lease Agreement**”) dated September 24, 2010; and

WHEREAS, on March 24, 2016 the Agency entered into an Amended and Restated Lease Agreement with the Owner with respect to an additional project (the “**Additional Project**”) which consisted of the transfer by the Agency to the Owner of the land and the improvements constituting the Original Facility and the acquisition by the Agency of a leasehold interest in such land and

improvements and the further renovation and equipping of the Original Facility all for use by the Company in its school bus transportation business which Additional Project included increasing of parking, storage, maintenance capacity and scope of work for the Company's fleets of school bus, transit bus and motor coach operations and maintenance thereof and the undertaking and acquisition of yard lighting, security systems, fencing, paving and further development of a repair shop and all incidentals necessary for the expanded operations of the school bus and transit fleet (the "**Additional Facility**"); and

WHEREAS, representatives of the Owner and Company have filed or caused to be filed an application with the Agency concerning a new project and to accomplish the purposes of the Act, the Agency has entered into negotiations with the Owner and the Company for the new "project" (the "**Project**") consisting of (i) the expansion and development of the approximately 29,328 square foot 2-story building located on an approximately 5.8 acre lot, piece or parcel of land generally known as 63 Lamar Street in West Babylon, New York 11704, and (ii) the acquisition of a leasehold interest in an approximately 5.5 acre lot, piece or parcel of land located at 1000 Straight Path generally known as 200 Edison Avenue in West Babylon, New York 11704 (the "**Cemetery Parcel**") and the acquisition, construction and equipping on the Cemetery Parcel of an approximately 3,000 square foot commercial facility, and the improvement of the Cemetery Parcel including drainage, curbing, paving, exterior lighting, security cameras, gates, fleet fueling infrastructure, computer systems, vehicle maintenance lifts, air compressor, NG radiant heat, LED lighting inside and out and commercial electric vehicle charging infrastructure and the acquisition and installation of certain equipment and personal property on the Land and the buildings and facilities thereon (collectively, the "**Facility**"), which such facilities will be in addition to and incorporated into the Original Facility and the Additional Facility, all of the forgoing for use by the Company as a bus depot and maintenance facility for the Company's school bus, transit bus, motor coach and maintenance operations; and

WHEREAS, in order to induce the Owner and the Company to retain and grow jobs in the Town it appears necessary for the Agency to assist the Owner and the Company by taking leasehold title to or undertaking control of the Facility so as to afford the Owner and the Company of certain relief from real property taxation and sales and use taxation for a limited period; and

WHEREAS, it is contemplated that the Owner will cause the transfer or lease of the Facility to the Agency pursuant to an Amended and Restated Company Lease Agreement (the "**Company Lease**") and the Agency will assist the Owner and Company to undertake the Project and will lease or sublease the Facility to the Owner pursuant to an Amended and Restated 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

WHEREAS, it is further contemplated 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 equal to lease rentals as specified in the Lease Agreement; and

WHEREAS, pursuant to the Lease Agreement the Owner and Company will agree 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; (ii) reviewed the Agency's written cost benefit analysis for the Project 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, there has been submitted to the Agency a resolution of the Town of Babylon Department of Environmental Control (the "**Environmental Memorandum**"), Zoning Board of Appeals Application No. 22-238 dated January 25, 2023 with respect to the Cemetery Parcel portion of the Project pursuant to Article 8 of the New York State Environmental Quality Review Act of the New York State Environmental Conservation Act and the regulations promulgated thereunder ("**SEQRA**"); 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 Project Application, as amended, the Company and Owner are in substantial compliance with the Act; 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 real property taxes and State and local sales and use taxes.

WHEREAS, the Agency desires to amend the Authorizing Resolution and adopt this Amendatory Resolution (this "**Amendatory Resolution**") to address the changes as described above; and

WHEREAS, the Agency desires to adopt this Amendatory Resolution.

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 land, building, machinery and equipment and capital improvements in the Facility of approximately \$5,036,000.
- (c) The Project will not have significant impact from local labor construction in the Town.
- (d) The average annual salaries for the employees of the Company are \$95,925 for management employees, \$59,800 for professional employees, \$54,200 for administrative employees, \$64,364 for supervisor employees, \$53,640 for full-time laborer employees, \$27,808 for part-time laborer employees and \$32,371 for operator employees. The average annual salary for all employees of the Company is \$55,444.
- (e) The Project will not have a significant effect on in-region purchases or research and development.
- (f) The Project will include a vehicle charging facilities for electric vehicles utilized by the Company which will have a positive effect on energy efficiency.
- (g) The Company and the Facility is a significant employer of the Town providing one hundred sixty-seven (167) full time jobs and three hundred forty-seven (347) part time jobs in the Town. Improving current outside passenger vehicle storage and employee parking with respect to the Project afford the Company the ability to increase its transportation work.

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; and (ii) the granting of 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 and the State 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 the Financial Assistance to the Owner and the Company with respect to the Project and the Facility.

(c) The Agency shall grant Financial Assistance to the Owner and the Company in the form of New York State and local Sales and Use Tax abatements in a maximum amount not to exceed \$392,437 as provided in Section 5.2 of the Lease Agreement and in the event of the occurrence of a recapture event under the Lease Agreement the Agency will pursue recapture of the Financial Assistance as provided in Section 5.4 of the Lease Agreement.

Section 3. To accomplish the purposes of the Act, the Agency shall take legal fee or leasehold title to the Facility pursuant to the Company Lease, assist the Owner and Company to undertake the Project and sublease the Facility to the Owner pursuant to the Lease Agreement and

the Owner will further sub-lease the Facility to the Company pursuant to the Sublease Agreement.

Section 4. Pursuant to the Lease Agreement, the Owner will 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 one or more Sales Tax Agent Authorization Letters (“**Sales Tax Authorization Letters**”) which shall be used pursuant to the terms contained therein and in the Lease Agreement.

Section 6. 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 7. The form and substance of the Company Lease in substantially the form previously executed for other “straight lease” transactions is hereby approved.

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

Section 9. The Agency, as an involved agency, pursuant to the State Environmental Quality Review Act (SEQRA) (Article 8 of the Environmental Conservation Law) and implementing regulations contained in 6 N.Y.C.R.R., part 617 has reviewed the Environmental Memorandum and hereby finds that the Cemetery Parcel portion of the Project is a TYPE II Project under SEQRA.

In accordance with SEQRA, the Agency finds that proposed action constituting the portion of the Project exclusive of the Cemetery Parcel 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 10. The CEO of the Agency or any successor CEO of the Agency or any other authorized representative including the CFO, is hereby authorized, on behalf of the Agency, to execute and deliver final forms of the Company Lease, Lease Agreement, Sales Tax Agent Authorization Letters, 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 or the CFO of the Agency or any other authorized representative of the Agency shall upon advice of counsel approve. The execution thereof by the CEO or the CFO of the Agency or any other authorized representative shall constitute conclusive evidence of such approval.

The CEO or CFO 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, the CFO'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 11. The CEO of the Agency, the CFO of the Agency or any other authorized representative including 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, the 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 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 Katten Muchin Rosenman LLP is hereby appointed transaction counsel to the Agency for this transaction.

Section 16. Notwithstanding the foregoing, the Agency will not grant any Financial Assistance to be granted hereunder in excess of \$100,000 to the Owner or the Company 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 17. This resolution shall take effect immediately.