

Date: May 23, 2023

At a meeting of the Town of Hempstead Industrial Development Agency (the “Agency”), held at Old Courtroom, 350 Front Street, 2nd floor, Hempstead, New York 11550 on the 23rd day of May, 2023, the following members of the Agency were:

Present: Florestano Girardi, Chairman
Thomas Grech, Vice Chairman
Eric C. Mallette, Treasurer
Jack Majkut, Secretary
Robert F. Bedford, Member
Jill Mollitor, Member
Jerry Kornbluth, Member

Absent: Lorraine Rhoads, Agency Administrator
Recused:

Also Present: Frederick E. Parola, Chief Executive Officer
Michael Lodato, Deputy Executive Director
Edie Longo, Chief Financial Officer
Arlyn Eames, Deputy Financial Officer
Laura Tomeo, Deputy Agency Administrator
John Ryan, Esq., Agency Counsel
T. Barry Carrigan, Esq., Transaction Counsel
Paul O’Brien, 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 acquisition of a leasehold interest in or title to a certain industrial development facility more particularly described herein (Baldwin Jaz LLC 2023 Facility) and the leasing of the Facility to Baldwin Jaz LLC.

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

<u>Voting Aye</u>	<u>Voting Nay</u>	<u>Abstain</u>
7	0	

RESOLUTION OF THE TOWN OF HEMPSTEAD
INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE
APPOINTMENT OF BALDWIN JAZ LLC, A NEW YORK
LIMITED LIABILITY COMPANY, ON BEHALF OF ITSELF
AND/OR THE PRINCIPALS OF BALDWIN JAZ 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 AN INDUSTRIAL DEVELOPMENT 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 529 of the Laws of 1971 of the State of New York, as the same may be amended from time to time (collectively, the “Act”), the Town of Hempstead Industrial Development 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 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, Baldwin Jaz 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 Baldwin Jaz LLC and/or an entity formed or to be formed on behalf of the foregoing (collectively, the “Company”), has applied to the Town of Hempstead Industrial Development Agency (the “Agency”), for assistance in the acquisition of multiple parcels of land totaling approximately 1.8 acres of land, located at 2253 Grand Avenue, 734, 736, 746, and 752 Sunrise Highway, and 2292 Harrison Avenue in Baldwin, New York (collectively, the “Land”), the excavation and removal of debris from an existing used car lot, the construction of a five-story approximately 59,341 square-foot building containing approximately 215 residential units (consisting of a mix of approximately 46 studio units, 138 one-bedroom units and 31 two-bedroom units) and approximately 5,000 square feet of ground floor retail and restaurant space, together with a public/private outdoor amenity space linking Grand Avenue with Sunrise Highway contiguous with the proposed retail and restaurant space, and the construction of approximately 251 on-site parking spaces (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 is to be leased by the Agency to the Company and used by the Company as a mixed use multi-family transit-oriented development and together with the ground floor retail and restaurant space, all to be known as The Grand at Baldwin (the “Project”). Ten percent (10%) of the residential units will be set aside for workforce housing and the Project will follow the Town of Hempstead’s BMX Overlay Code and the Downtown Revitalization Initiative plans; and

WHEREAS, the Agency, by resolution duly adopted on April 18, 2023 (the “Inducement Resolution”), decided to proceed under the provisions of the Act; 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 May 1, 2023, or such other date as the Chairman, the Chief Executive Officer or the Deputy Executive Director 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 May 1, 2023, or such other date as the Chairman, the Chief Executive Officer or the Deputy Executive Director 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 required the Company to provide to the Agency a feasibility report (the “**Feasibility Study**”), together with such other materials (together with the Feasibility Study, the “**Requisite Materials**”) to enable the Agency to make findings and determinations that the Facility qualifies as a “project” under the Act and that the Facility satisfies all other requirements of the Act, and such Requisite Materials are listed below and attached as Exhibit C to the Inducement Resolution:

1. Economic and Fiscal Impact Analysis – The Grand at Baldwin, prepared by Nelson Pope Voorhis on June 28, 2022;
2. New York Law Journal Article, dated March 22, 2017 on Eligibility of Residential Developments for IDA Benefits by Anthony Guardino, Esq.; and
3. Ryan et al. v. Town of Hempstead Industrial Development Agency et al.; and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company consistent with the policies of the Agency, in the form of (i) exemptions from mortgage recording taxes for one or more mortgages securing an amount presently estimated to be \$70,146,200 but not to exceed \$72,000,000, corresponding to mortgage recording tax exemptions presently estimated to be \$526,096.50, but not to exceed \$540,000, 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 acquiring, constructing, demolishing and equipping the Facility, (ii) exemptions from sales and use taxes in an approximate amount not to exceed \$3,203,998.09, 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 A hereof), consistent with the policies of the Agency; and

WHEREAS, the Agency’s Uniform Tax Exemption Policy (“**UTEP**”), which such UTEP is annexed to the Inducement Resolution as Exhibit D, provides for the granting of financial assistance by the Agency for housing projects pursuant to Section I.A.(II); and

WHEREAS, the requested PILOT benefit deviates from the Agency's UTEP, because the proposed PILOT benefit will be for a term of up to thirty (30) years instead of fifteen (15) years; and

WHEREAS, the Agency proposes to deviate from the UTEP because the Facility will provide jobs for the residents of the Town of Hempstead and will provide housing solutions for the Town of Hempstead, including ten percent (10%) of the residential units will be set aside for "workforce housing" pursuant to the U.S. Department of Housing and Urban Development guidelines, and a thirty (30) year PILOT would have a long term positive impact on real property tax revenues for the affected taxing jurisdictions; and

WHEREAS, as security for a loan or loans (as such term is defined in the Lease Agreement), the Agency and the Company will execute and deliver to a lender or lenders not yet determined (collectively, the "**Lender**"), a mortgage or mortgages (the "**Mortgage**"), 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 equipping and furnishing of the Facility (collectively, the "**Loan Documents**"); and

WHEREAS, the Agency has given due consideration to the application of the Company to the Agency for financial assistance (the "**Application**") and to representations of the Company therein; 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. The Agency 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 Facility preserves the public purposes of the Act by preserving or increasing the number of permanent private sector jobs in the Town of Hempstead. The Company has represented to the Agency that they intend to create approximately eight and one-half (8.5) new full-time employees within the second year after completion of the Facility; and

(d) 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

(e) The Facility constitutes a “project” and a “commercial facility” as such terms are defined in the Act; and

(f) The acquisition, construction and equipping of the Facility and the leasing and subleasing of the Facility to the Company will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Town of Hempstead, and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(g) 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

(h) Based upon the representations of the Company, the transactions contemplated by the Lease Agreement shall not result in the removal of any facility or plant if any Facility occupant(s) from one area of the State to another area of the State or in the abandonment of one or more facilities or plants of the Facility occupant(s) located within the State; and

(i) The requested financial assistance with respect to the abatement of real property taxes deviates from the UTEP because the abatement of real property taxes granted pursuant to the proposed Lease Agreement will be for a term of up to thirty (30) years instead of fifteen (15) years and the Facility will provide jobs for the residents of the Town of Hempstead and will provide housing solutions for the Town of Hempstead, including ten percent (10%) of the residential units will be set aside for “workforce housing” pursuant to the U.S. Department of Housing and Urban Development guidelines, and a thirty (30) year PILOT would have a long term positive impact on real property tax revenues for the affected taxing jurisdictions, therefore deviation from the UTEP is appropriate; and

(j) 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 Hempstead, Nassau County, and all regional and local land use plans for the area in which the Facility is located; and

(k) It is desirable and in the public interest for the Agency to sublease the Land and the Improvements and to lease the Equipment to the Company; and

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

(m) The Lease Agreement will be an effective instrument whereby the Agency will sublease and lease 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

(n) 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 2. 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 3. 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) lease and sublease the Facility to the Company pursuant to the Lease Agreement, (iv) execute, deliver and perform the Lease Agreement, (v) grant a mortgage lien on and security interest in and to the Facility pursuant to the Mortgage, (vi) execute and deliver the Mortgage, and (vii) execute and deliver the Loan Documents to which the Agency is a party, and such other related documents or certificates as may be necessary or appropriate to effect the loan.

Section 4. 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 5. The Agency is hereby further authorized to execute and deliver the Loan Documents in connection with the financing of the costs of acquiring, constructing and equipping the Facility and any future Loan Documents in connection with any future refinancing or permanent financing of such costs of acquiring, constructing, and equipping of the Facility without the need for any further or future approvals of the Agency.

Section 6. 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 \$70,146,200 but not to exceed \$72,000,000, corresponding to mortgage recording tax exemptions presently estimated to be \$526,096.50, but not to exceed \$540,000, 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 acquiring, constructing and equipping the Facility, (ii) exemptions from sales and use taxes in an approximate amount not to exceed \$3,203,998.09, 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 A hereof).

Section 7. 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 agents of the Agency solely for purposes of making purchases 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 have received exemptions from sales and use taxes in an amount not to exceed \$3,203,998.09, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility; 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 8. The Company is hereby notified that it will be required to comply with Section 875 of the Act. The Company is further notified that the exemption of sales and use tax provided pursuant to the Act and the appointment of the Company as agent of the Agency pursuant to this Authorizing Resolution is 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 9. The form and substance of the Company Lease and the Lease Agreement and the Loan Documents (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 10.

(a) The Chairman, the Chief Executive Officer, the Chief Financial Officer 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, the Chief Financial Officer 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, the Chief Financial Officer or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, the Chief Executive Officer, the Chief Financial 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 11. 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 12. 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 13. 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 12 hereof).

Section 14. This resolution shall take effect immediately.

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

We, the undersigned Chief Executive Officer and Chairman of the Town of Hempstead Industrial Development Agency, DO HEREBY CERTIFY THAT:

That we have compared the annexed extract of the minutes of the meeting of the Town of Hempstead Industrial Development Agency (the “Agency”), including the resolutions contained therein, held on May 23, 2023, with the original thereof on file in the office of the Agency, 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.

WE 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, we have hereunto set our hands as of the 23rd day of May, 2023.

By: 

Frederick E. Parola
Chief Executive Officer

By: 

Florestano Girardi
Chairman

EXHIBIT A

Proposed PILOT Benefits

Schedule of In-Lieu-of-Taxes Payment **less** any amounts payable by the Company in connection with any special ad valorem levies, special assessments or Special District Taxes and service charges levied against the Facility to the Town of Hempstead, Baldwin Union Free School District and Appropriate Special Districts:

Property Address: 2253 Grand Avenue, 734, 736, 746, 752 Sunrise Highway, 2292 Harrison Avenue, Baldwin, New York 11510

Current Tax Information:

Section; 54, Block: 101, Lots: 30(129), 33, 41, 42, 35, 38, 39, 26

Parcels: 8

School District - Baldwin

Current Total Taxes Year: \$129,794.87

Estimated Taxes Once Built: \$1,532,478.50

<u>Year</u>	<u>Total</u>
1	\$130,000.00
2	\$130,000.00
3	\$130,000.00
4	\$175,000.00
5	\$250,000.00
6	\$310,000.00
7	\$390,000.00
8	\$450,000.00
9	\$500,000.00
10	\$575,000.00
11	\$650,000.00
12	\$730,000.00
13	\$820,000.00
14	\$910,000.00
15	\$1,100,000.00
16	\$1,200,000.00
17	\$1,300,000.00
18	\$1,400,000.00
19	\$1,500,000.00
20	\$1,600,000.00
21	\$1,700,000.00
22	\$1,790,000.00
23	\$1,830,000.00
24	\$1,900,000.00
25	\$1,980,000.00
26	\$2,000,000.00
27	\$2,100,000.00
28	\$2,200,000.00
29	\$2,300,000.00
30	\$2,400,000.00

PILOT Payments shall be allocated among the Taxing Authorities in proportion to the amount of real property tax and other taxes which would have been received by each Taxing Authority if the Facility was owned by the Company exclusive of the Agency's leasehold interest.

All annual PILOT Payments as described above shall be payable in two equal semi-annual installments: (i) with respect to the school taxes, two equal semi-annual installments on or prior to November 10 and May 10 of each year of the Lease Term or on such other due dates as may be established from time to time during the Lease Term and (ii) with respect to the general taxes, two equal semi-annual installments on or prior to February 10 and August 10 of each year of the Lease Term or on such other due dates as may be established from time to time during the Lease Term and (iii) with respect to the village taxes June 1 and December 1 or on such other due dates as may be established from time to time during the Lease Term.