

Date: October 19, 2021

At a meeting of the Town of Islip Industrial Development Agency (the “**Agency**”), held at 40 Nassau Avenue, Islip, New York 11751 on the 19th day of October, 2021, the following members of the Agency were:

Present: Chairwoman Angie M. Carpenter
Councilwoman Trish Bergin Weichbrodt
Councilman John C. Cochrane Jr.
Councilwoman Mary Kate Mullen
Councilman James P. O’Connor

Absent:

Also Present:

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 the assignment and assumption of the Agency’s Court Plaza Senior Apartments, L.P. Facility, the execution and delivery of documents with respect thereto and the sale of the Facility to Whitney Court Plaza LLC.

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

Voting Aye

Voting Nay

Chairwoman Angie M. Carpenter
Councilwoman Trish Bergin Weichbrodt
Councilman John C. Cochrane Jr.
Councilwoman Mary Kate Mullen
Councilman James P. O’Connor

RESOLUTION OF THE TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE ASSIGNMENT AND ASSUMPTION OF A CERTAIN INDUSTRIAL DEVELOPMENT FACILITY TO WHITNEY COURT PLAZA, LLC, A NEW YORK LIMITED LIABILITY COMPANY OR ANOTHER ENTITY FORMED OR TO BE FORMED BY WHITNEY COURT PLAZA, LLC, OR THE PRINCIPALS THEREOF AS AGENT(S) OF THE AGENCY FOR THE PURPOSE OF ACQUIRING, THE 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 47 of the Laws of 1974 of the State of New York, as may be amended from time to time (collectively, the “**Act**”), the Town of Islip Industrial Development Agency (the “**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 Agency has previously provided its assistance Court Plaza Senior Apartments, L.P., a limited partnership duly organized and validly existing under the laws of the State of New York (the “**Original Company**”), in connection with the (a) the acquisition of an approximately 9 acre parcel of land located at One Hoppen Drive, Central Islip, Town of Islip, Suffolk County, New York (the “**Land**”), the construction, renovation and equipping of an approximately 180,000 square foot building located thereon (the “**Improvements**”), and used as an approximately one hundred forty-eight (148) unit affordable senior citizen housing community (the “**Facility**”); and

WHEREAS, in order to finance the costs of the acquisition, construction and equipping of the Facility, the Agency issued its Industrial Development Revenue Bonds, Series 2001 (Court Plaza Senior Apartments, L.P. Facility) (the “**Bonds**”) in the aggregate amount of \$15,000,000, on December 31, 2001; and

WHEREAS, in order to secure the Bonds, the Agency took title to the Facility pursuant to a certain Bargain and Sale Deed, from Courthouse Corporate Center, LLC, a New York limited liability company, to the Agency (the “**Deed**”), dated February 28, 2001; and

WHEREAS, the Agency sold the Facility to the Company, pursuant to the terms of an Installment Sale Agreement, dated as of December 1, 2001, as amended and restated as of April 26, 2002, and further amended and restated as of February 10, 2014 (collectively, the “**Installment Sale Agreement**”), between the Agency and the Company; and

WHEREAS, the Agency and the Company entered into a Payment-in-Lieu-of-Tax Agreement, dated as of August 1, 2003, amended and restated as of February 1, 2006, and further amended and restated as of February 1, 2014 (collectively, the “**PILOT**”

Agreement”), whereby the Agency set forth terms and conditions regarding the Company’s payments of amounts in lieu of real property taxes; and

WHEREAS, in connection with the acquisition, construction and equipping of the Facility, the Issuer, the Bond Purchaser and Custodian and the Company have previously entered into an Environmental Compliance and Indemnification Agreement, dated as of December 1, 2001, as amended and restated as of April 26, 2002, and as further amended and restated as of February 1, 2014 (collectively, the “**Environmental Compliance and Indemnification Agreement**”), wherein the Company agreed to comply with and indemnify the Issuer for liability in connection with certain environmental matters; and

WHEREAS, in connection with the Second Amended and Restated PILOT Agreement, the Agency and the Company entered into a certain Recapture Agreement, dated as of February 1, 2014 (the “**Recapture Agreement**”), between the Agency and the Company; and

WHEREAS, the Bonds have subsequently been paid off; and

WHEREAS, Whitney Court Plaza, LLC a limited liability company or another entity formed or to be formed by Whitney Court Plaza, LLC, or the principals thereof (collectively, the “**Assignee**”) has requested the Agency’s consent to the assignment by the Original Company of all of its rights, title, interest and obligations under the PILOT Agreement, the Environmental Compliance and Indemnification Agreement, the Recapture Agreement, and certain other agreements in connection with the Facility to, and the assumption by, the Assignee of all of such rights, title, interest and obligations of the Original Company, and the release of the Original Company from any further liability with respect to the Facility subject to certain requirements of the Agency; and

WHEREAS, the Assignee entered into a Purchase and Sale Agreement (the “**PSA**”) on June 18, 2021 with the Original Company; and

WHEREAS, the Agency shall reconvey title to the Facility to the Original Company and shall terminate the Installment Sale Agreement, the PILOT Agreement, the Environmental Compliance and Indemnification Agreement, and the Recapture Agreement; and

WHEREAS, in accordance with the PSA, the Original Company shall convey title to the Facility to the Assignee; and

WHEREAS, the Agency, by resolution duly adopted on September 4, 2021 (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 Improvements pursuant to a Company Lease Agreement, dated as of October 1, 2021, or such other date as the Chairman or Executive Director of the Agency and counsel to the

Agency shall agree (the “**Company Lease**”), by and between the Assignee and the Agency; and

WHEREAS, the Agency will sublease and lease the Facility to the Assignee pursuant to a certain Lease and Project Agreement, dated as of October 1, 2021 or such other date as the Chairman or Executive Director of the Agency and counsel to the Agency shall agree (the “**Lease Agreement**”), by and between the Agency and the Assignee; 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 to be determined (the “**Lender**”), by entering into a mortgage or mortgages from the Assignee and the Agency to the Lender securing the principal amount presently estimated to be \$22,000,000, but not to exceed \$25,000,000 (the “**2021 Loan**”); 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 \$22,000,000 but not to exceed \$25,000,000, corresponding to mortgage recording tax exemptions presently estimated to be \$165,000 but not to exceed \$187,500, in connection with the financing or the acquisition of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, constructing and equipping of the Facility, and (ii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit A hereof), all consistent with the policies of the Agency; and

WHEREAS, the Original Company and the Assignee have agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated by the sublease of the Facility.

NOW, THEREFORE, BE IT RESOLVED by the Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. The Agency hereby 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 leasing of the Facility to the Assignee will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the Town of Islip, Suffolk County and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(d) The leasing of the Facility is reasonably necessary to induce the Assignee to maintain and expand its business operations in the State of New York; and

(e) Based upon representations of the Assignee and counsel to the Assignee, the Facility conforms with the local zoning laws and planning regulations of the Town of Islip, Suffolk County and all regional and local land use plans for the area in which the Facility is located; and

(f) It is desirable and in the public interest for the Agency to lease the Facility to the Assignee; and

(g) It is desirable and in the public interest for the Agency to consent to the transfer of the interest in the Facility from the Original Company to the Assignee; and

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

(i) The Lease Agreement will be an effective instrument whereby the Agency subleases and leases the Facility to the Assignee, the Agency and the Assignee set forth the terms and conditions of their agreement regarding payments-in-lieu of taxes, the Assignee 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 Assignee; and

(j) The Loan Documents will be effective instruments whereby the Agency and the Assignee agree to secure the 2021 Loan and assign to the Lender their respective rights under the Lease Agreement (except the Agency's Unassigned Rights as defined therein).

Section 2. The Agency has assessed all material information included in connection with the Assignee'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 Assignee.

Section 3. In consequence of the foregoing, the Agency hereby determines to: (i) lease the Land and the Improvements from the Assignee pursuant to the Company Lease, (ii) execute, deliver and perform the Company Lease, (iii) sublease and lease the Facility to the Assignee pursuant to the Lease Agreement, (iv) execute, deliver and perform the Lease Agreement, (v) grant a mortgage on and security interest in and to the Facility pursuant to the Loan Documents, and (vi) execute and deliver the Loan Documents to which the Agency is a party.

Section 4. The Agency is hereby authorized to consent 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 hereby authorizes and approves the following economic benefits to be granted to the Assignee in connection with the acquisition 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 \$22,000,000 but not to exceed \$25,000,000, corresponding to mortgage recording tax exemptions presently estimated to be \$165,000, but not to exceed \$187,500, in connection with the financing of the acquisition of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring the Facility, and (ii) the continued and extended abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit A hereof).

Section 6. Subject to the provisions of this resolution, the Assignee is herewith and hereby appointed the agents of the Agency to acquire, renovate and equip the Facility. The Assignee 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 Assignee may choose in order to acquire, renovate and equip the Facility. The Agency hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Assignee as agents of the Agency solely for purposes of making sales 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 Assignee, 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 Assignee 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 Assignee 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 Assignee, as agent of the Agency. The aforesaid appointment of the Assignee as agent of the Agency to acquire the Facility shall expire at the earlier of (a) the completion of such activities and improvements, or (b) a date which the Agency designates, or The aforesaid appointment of the Assignee is subject to the execution of the documents contemplated by this resolution.

Section 7. The Assignee is hereby notified that it will be required to comply with Section 875 of the Act. The Assignee shall be required to agree to the terms of Section 875 pursuant to the Lease Agreement. The Assignee is further notified that the mortgage exemptions, the tax exemptions and the continued abatements provided pursuant to the Act are subject to termination and recapture of benefits pursuant to Sections 859-a and 875 of the Act and the recapture provisions of the Original Lease Agreement, as assigned.

Section 9. The form and substance of the Company Lease, the Lease Agreement, and the Loan Documents to which the Agency is a party (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, Vice Chairman, Executive Director 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, in the form the Chairman, Vice Chairman, Executive Director, or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman, Vice

Chairman, Executive Director, or any member and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the **"Agency Documents"**). The execution thereof by Chairman, Vice Chairman, Executive Director, or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, Vice Chairman, Executive Director 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. This resolution shall take effect immediately.

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

I, the undersigned Assistant Secretary of the Town of Islip Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Town of Islip Industrial Development Agency (the "Agency"), including the resolutions contained therein, held on October 19, 2021, with the original thereof on file in my office, 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.

That the Agency Documents contained in this transcript of proceedings is in substantially the form presented to the Agency and/or approved by said meeting.

I 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, I have hereunto set my hand as of the 19th day of October, 2021.

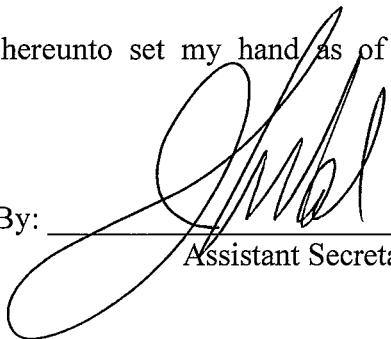
By:  _____
Assistant Secretary

EXHIBIT A

PILOT Schedule

Schedule for In-Lieu-of-Taxes Payment: The Town of Islip (including any existing incorporated village and any village which may be incorporated after the date hereof, within which the Facility is wholly or partially located), Central Islip School District, Suffolk County and Appropriate Special Districts.

1 Hoppen Drive, Central Islip, New York

Tax Map No. 0500-207.00-01.00-051.019

<u>Tax Year</u>	<u>Payment Schedule</u>
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Assumption of existing PILOT Schedule:

<u>Tax Year</u>	<u>PILOT Payment Per Rental Unit</u>
2020/2021	\$1,461.20
2021/2022	\$1,519.65
2022/2023	\$1,580.40
2023/2024	\$1,643.65
2024/2025	\$1,709.40
2025/2026	\$1,777.80
2026/2027	\$1,848.90
2027/2028	\$1,922.85

PILOT extension:

<u>Tax Year</u>	<u>PILOT Payment Per Rental Unit</u>
2028/2029	\$1,999.76
2029/2030	\$2,079.75
2030/2031	\$2,162.94
2031/2032	\$2,249.76
2032/2033	\$2,339.75