

Date: April 8, 2014

At a meeting of the Town of Islip Industrial Development Agency (the “Agency”), held at Islip Town Hall, 655 Main Street, Islip, New York on the 8th day of April, 2014 the following members of the Agency were:

Present: Chairman Eric Hofmeister
Councilman Steve Flotteron
Councilman John Cochrane
Councilman Anthony Senft
Councilwoman Trish Bergin Weichbrodt

Absent: Tom Croci – due to military leave

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 certain matters pertaining to acquisition of a leasehold interest in a certain industrial development facility more particularly described below (Gilpin, LLC/Carson Optical, Inc. 2014 Facility) and the leasing of the facility to Gilpin, LLC for further sublease to Carson Optical, Inc.

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

Voting Aye

Voting Nay

Chairman Eric Hofmeister
Councilman Steve Flotteron
Councilman John Cochrane
Councilman Anthony Senft
Councilwoman Trish Bergin Weichbrodt

RESOLUTION OF THE TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE ACQUISITION, RENOVATION AND EQUIPPING OF A CERTAIN INDUSTRIAL DEVELOPMENT FACILITY TO BE LEASED TO GILPIN, LLC A NEW YORK LIMITED LIABILITY COMPANY AND TO BE SUBLEASED TO CARSON OPTICAL, INC. A NEW YORK BUSINESS CORPORATION 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 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, Carson Optical, Inc., a New York business corporation, on behalf of itself and/or the principals of Carson Optical, Inc., and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “**Applicant**” and “**Sublessee**”), has applied to the Town of Islip Industrial Development Agency (the “**Agency**”) to enter into a transaction in which the Agency will assistance in connection with the acquisition of an approximately 3.62 acre parcel of land located at 2070 Fifth Avenue, Ronkonkoma, Town of Islip, Suffolk County, New York (the “**Land**”), the renovation of an existing 50,600 square foot building located thereon (the “**Improvements**”), and the acquisition of certain equipment, including, but not limited to, engineering equipment, such as a vertical machining center and basic optical equipment, office equipment, such as computers, desks, printers, phones, etc. and warehouse equipment, such as a forklift, pallet racking, lighting (the “**Equipment**”; and together with the Land and the Improvements, the “**Facility**”), all to be leased by the Agency to Asset Preservation, Inc., a business corporation organized and existing in the State of California and authorized to transact business in the State of New York (the “**Exchange Agent**”; and before the Effective Date, the “**Company**”) and Gilpin, LLC, a limited liability company organized and existing in the State of New York (“**Gilpin**”; and on and after the Effective Date, the “**Company**”) for further sublease to and to be used by the Sublessee in the research and development of optical products, the warehousing of imported products and the distribution of products worldwide, including the following as they relate to the acquisition, renovation and equipping of such Facility, whether or not any materials or supplies described below are incorporated into or become an integral part of such Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with the acquisition, renovation and equipping of the Facility, (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with the acquisition, renovation and equipping of the Facility, and (iii) all purchases, leases, rentals and uses of equipment, machinery and other tangible personal property (including installation costs with respect thereto) installed or placed in, upon or under such Facility; and

WHEREAS, the Agency will acquire a leasehold interest in the Facility pursuant to a certain Company Lease, dated as of April 1, 2014 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 Company and the Agency; and

WHEREAS, the Agency will sublease the Facility to the Company pursuant to a certain Lease Agreement, dated as of April 1, 2014 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 Company; and

WHEREAS, the Company will sub-sublease the Facility to the Sublessee, upon the terms and conditions set forth in a certain Sublease Agreement, dated as of April 1, 2014, or such other date to be determined (the “**Sublease Agreement**”), between the Company and the Sublessee; and

WHEREAS, Gilpin has requested the Agency’s assistance in entering into a tax deferred exchange as part of the transfer of the fee interest in the Facility (the “**Exchange**”); and

WHEREAS, the Exchange Agent and Gilpin have entered into a certain Exchange Agreement, dated March 25, 2014 (the “**Exchange Agreement**”), pursuant to which the Exchange Agent has agreed to acquire the fee title interest in the Facility prior to the Effective Date (as such term shall be defined in the Lease Agreement); and

WHEREAS, pursuant to the Exchange Agreement, the Exchange Agent’s fee interest in the Facility will be transferred to the Company, upon the closing of the transactions contemplated by the Exchange Agreement; and

WHEREAS, upon the Effective Date, the parties hereto hereby agree that Gilpin shall be the owner of the Facility, and the Agency has agreed to release the Exchange Agent from all of its obligations, liabilities and duties under the Lease Agreement arising as a result of the Exchange Agent’s ownership interest in the Facility prior to the Effective Date; and

WHEREAS, the Agency will execute and deliver such other documents as are necessary to complete the Exchange (the “**Exchange Documents**”); and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company and the Sublessee consistent with the policies of the Agency, in the form of (i) exemptions from mortgage recording taxes for one or more mortgages securing the principal amount presently estimated to be \$2,965,160.00 but not to exceed \$3,300,000 in connection with the financing of the acquisition, renovation and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, renovating and equipping the Facility, (ii) exemptions from sales and use taxes in an amount not to exceed \$42,771.00 in connection with the purchase or lease of equipment, building materials, services or other personal property (as set forth in the Form of Sales Tax Letter set forth as Exhibit A hereof) and (iii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit B hereof), consistent with the policies of the Agency; 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, in order to define the Company's and the Sublessee's obligations regarding payments-in-lieu-of taxes with respect to the Facility, the Agency, the Company and the Sublessee will enter into a certain Payment-in-Lieu-of-Tax Agreement, dated as of April 1, 2014, or such date as may be determined by the Agency and counsel to the Agency (the "**PILOT Agreement**"), pursuant to which the Company and the Sublessee will make payments in lieu of taxes on the Facility; and

WHEREAS, in connection with the leasing and the subleasing of the Facility, the Agency, the Company and the Sublessee will enter into a certain Recapture Agreement, dated as of April 1, 2014 or such date as may be determined by the Agency and counsel to the Agency (the "**Recapture Agreement**"), among the Agency, the Company and the Sublessee; and

WHEREAS, as security for a loan or loans (as such term shall be defined in the Lease Agreement), the Agency and the Company will execute and deliver to M&T Bank (the "**Lender**"), a mortgage or mortgages, 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, renovation and equipping of the Facility (collectively, the "**Loan Documents**"); and

WHEREAS, the Company and the Sublessee 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 leasing of the Facility by the Agency to the Company and the subleasing of the Facility to the Sublessee;

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 acquisition, renovation and equipping of the Facility the leasing of the Facility to the Company and the subleasing of the Facility by the Company to the Sublessee will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Town of Islip, and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(d) The acquisition, renovation and equipping of the Facility is reasonably necessary to induce the Company and the Sublessee to maintain and expand their respective business operations in the State of New York; and

(e) Based upon representations of the Company and the Sublessee and counsel to the Company and the Sublessee, 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) The Facility and the operations conducted therein do not have a significant effect on the environment, as determined in accordance with Article 8 of the Environmental Conservation Law of the State of New York and the regulations promulgated thereunder; and

(g) It is desirable and in the public interest for the Agency to lease the Facility to the Company for further sublease to the Sublessee ; and

(h) The Company Lease will be an effective instrument whereby the Company will lease the Facility to the Agency; and

(i) The Lease Agreement will be an effective instrument whereby the Agency will lease the Facility to the Company; and

(j) The PILOT Agreement will be an effective instrument whereby the Agency, the Company and the Sublessee set forth the terms and conditions of their Agreement regarding the Company's and the Sublessee's payments in lieu of real property taxes; and

(k) The Recapture Agreement will be an effective instrument whereby the Agency, the Company and the Sublessee agree to provide for the obligations of the Company and the Sublessee under the Transaction Documents (as defined in the Lease Agreement) and describe the circumstances in which the Agency may recapture some or all of the benefits granted to the Company and the Sublessee; and

(l) The Environmental Compliance and Indemnification Agreement, dated as of April 1, 2014 or such other date as may be determined by the Agency and counsel to the Agency (the "**Environmental Compliance and Indemnification Agreement**"), by and among the Agency, the Company and the Sublessee will be an effective instrument whereby the Company and the Sublessee agree to comply with all Environmental Laws (as defined therein) applicable to the Facility and will indemnify and hold harmless the Agency for all liability under all such Environmental Laws;

(m) The Agency Compliance Agreement, dated as of April 1, 2014 or such other date as may be determined by the Agency and counsel to the Agency (the "**Agency Compliance Agreement**"), between the Agency and the Sublessee will be an effective instrument whereby the Sublessee will provide certain assurances to the Agency with respect to the Sublease Agreement;

(n) The Exchange Documents to which the Agency is a party will be effective instruments whereby the Agency facilitates the completion of the Exchange; and

(o) 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. In consequence of the foregoing, the Agency hereby determines to: (i) lease the Facility from the Company pursuant to the Company Lease, (ii) execute and deliver the Company Lease; (iii) lease the Facility to the Company pursuant to the Lease Agreement, (iv) execute, deliver and perform the Lease Agreement, (v) execute, deliver and perform the PILOT Agreement, (vi) execute, deliver and perform the Recapture Agreement, and (vii) execute and deliver the Environmental Compliance and Indemnification Agreement, (viii) execute and deliver the Agency Compliance Agreement; (ix) execute and deliver the Exchange Documents, (x) grant a mortgage on and security interests in and to the Facility pursuant to the Loan Documents, and (xi) execute, deliver and perform the Loan Documents to which the Agency is a party.

Section 3. 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 4. The Agency hereby authorizes and approves the following economic benefits to be granted to the Company and the Sublessee in connection with the acquisition, renovation and equipping of the Facility in the form of (i) exemptions from mortgage recording taxes for one or more mortgages securing the principal amount presently estimated to be \$2,965,160.00 but not to exceed \$3,300,000 in connection with the financing of the acquisition, renovation and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, renovating and equipping the Facility, (ii) exemptions from sales and use taxes in an amount not to exceed \$42,771.00 in connection with the purchase or lease of equipment, building materials, services or other personal property (as set forth in the Form of Sales Tax Letter set forth as Exhibit A hereof) and (iii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit B hereof), consistent with the policies of the Agency.

Section 5. The Company the Sublessee hereby agree to comply with Section 875 of the Act. The Company the Sublessee further agree that the exemption of sales and use tax provided pursuant to the Act and the appointment of the Company the Sublessee as agents of the Agency pursuant to this Authorizing Resolution is subject to termination and recapture of benefits pursuant to Section 875 of the Act and the Recapture Agreement.

Section 6. The form and substance of the Company Lease, the Lease Agreement, the PILOT Agreement, the Recapture Agreement, the Environmental Compliance and Indemnification Agreement, the Agency Compliance Agreement, the Exchange Documents 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 7.

(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, the PILOT Agreement, the Recapture Agreement, the Environmental Compliance and Indemnification Agreement, the Agency Compliance Agreement, the Exchange Documents and the Loan Documents, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as 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 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, 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 8. 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 9. This resolution shall take effect immediately.

