

Date: November 20, 2019

At a meeting of the Town of Brookhaven Industrial Development Agency (the “**Issuer**”), held on the 20th day of November, 2019, at 12:00 p.m. local time, at the Town of Brookhaven Division of Economic Development, 1 Independence Hill, 2nd Floor, Farmingville, New York 11738, the following members of the Issuer were:

Present: Frederick C. Braun, III
Martin Callahan
Felix J. Grucci, Jr.
Scott Middleton
Gary Pollakusky
Ann-Marie Scheidt
Frank C. Trotta

Absent:

Also Present: Lisa M. G. Mulligan, Chief Executive Officer

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 modification of payment-in-lieu-of-tax benefits with respect to the Warco, L.L.C./Frank Lowe Rubber & Gasket Co., Inc. Facility and the execution of related documents.

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

Voting Aye

Voting Nay

Braun
Callahan
Grucci
Middleton
Pollakusky
Trotta

RESOLUTION OF THE TOWN OF BROOKHAVEN
INDUSTRIAL DEVELOPMENT AGENCY APPROVING
THE MODIFICATION OF PAYMENT-IN-LIEU-OF-TAX
BENEFITS WITH RESPECT TO THE WARCO,
L.L.C./FRANK LOWE RUBBER & GASKET CO., INC.
FACILITY AND APPROVING THE FORM, SUBSTANCE
AND EXECUTION OF RELATED DOCUMENTS

WHEREAS, by Title I of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 358 of the Laws of 1970 of the State of New York, as may be amended from time to time (collectively, the “**Act**”), the Town of Brookhaven Industrial Development Agency (the “**Issuer**”) was created with the authority and power to issue its special revenue bonds for the purpose of, among other things, acquiring certain industrial development facilities as authorized by the Act; and

WHEREAS, the Issuer previously provided its assistance to Warco, L.L.C., a New York limited liability company (the “**Company**”), by issuing its Industrial Development Revenue Bonds, Series 2006 (Warco, L.L.C./Frank Lowe Rubber & Gasket Co., Inc. Facility) in the aggregate principal amount of \$6,270,000 (the “**Bonds**”), to finance an industrial development facility consisting of the acquisition of an approximately 6.35 acre parcel of land located on the south side of Ramsay Road, approximately 2,370 feet east of William Floyd Parkway, in Yaphank, Town of Brookhaven, Suffolk County, New York (more specifically known as Parcel “E” and as Suffolk County Tax Parcel Number 200-584-1-4.38), and the construction and equipping of an approximately 61,918 square foot building located thereon and the acquisition of certain machinery and equipment including, but not limited to, a Preco die cutter, an additional laminator, a slitter, a baloney slitter, racking, shelving and material handling equipment and office equipment and furnishing including, but not limited to, computers, furniture and supplies, all leased by the Issuer to the Company and subleased by the Company to Frank Lowe Rubber & Gasket Co., Inc. (the “**Sublessee**”), and used by the Sublessee for the manufacturing and warehousing of gaskets, packing and sealing devices and other fabricated rubber products (the “**Facility**”); and

WHEREAS, the Issuer previously acquired title to the Facility pursuant to a certain Bargain and Sale Deed (the “**Deed**”), and a certain Bill of Sale (the “**Bill of Sale**”), each dated December 14, 2006, from the Company to the Issuer; and

WHEREAS, the Issuer is currently leasing the Facility to the Company, pursuant to a certain Lease Agreement, dated as of December 1, 2006 (the “**Lease Agreement**”), between the Issuer and the Company; and

WHEREAS, the term of the Lease Agreement runs until December 1, 2026; and

WHEREAS, the Company is further subleasing the Facility to the Sublessee pursuant to a certain Sublease Agreement, dated December 14, 2006 (the “**Sublease Agreement**”), by and between the Company and the Sublessee; and

WHEREAS, in connection with the leasing and subleasing of the Facility, the Issuer, the Company, and the Sublessee entered into a certain Payment-in-Lieu-of Tax Agreement, dated as of December 1, 2006 (the “**Original PILOT Agreement**”), whereby the Company and Sublessee agreed to make payments in lieu of taxes on the Facility; and

WHEREAS, the Company and Sublessee have now requested the Issuer’s assistance in granting an extension of benefits provided under the Original PILOT Agreement for a period of five (5) years (the “**PILOT Extension**”); and

WHEREAS, the Issuer has agreed to grant the requested PILOT Extension to the Company and the Sublessee pursuant to a certain Amended and Restated Payment-in-Lieu-of-Tax Agreement, originally dated as of December 1, 2006 and amended and restated as of November 1, 2019 or such other date as agreed upon by the Chairman, the Chief Executive Officer and counsel to the Issuer (the “**Amended and Restated PILOT Agreement**”; and together with the Original PILOT Agreement, the “**PILOT Agreement**”), by and among the Issuer, the Company and the Sublessee; and

WHEREAS, the Issuer, the Company, and the Sublessee will enter into a certain Recapture Agreement, dated as of November 1, 2019 or such other date as agreed upon by the Chairman, the Chief Executive Officer and counsel to the Agency (the “**Recapture Agreement**”), by and among the Issuer, the Company, and the Sublessee in order to reflect the repayment obligations of the Company and the Sublessee upon the occurrence of a Recapture Event (as defined therein); and

WHEREAS, the Issuer, the Company, and the Sublessee will execute and deliver such other documents as may be required to effectuate the PILOT Extension (the “**Amendment Documents**”); and

WHEREAS, the Issuer contemplates that it will provide financial assistance to the Company and the Sublessee consistent with the policies of the Issuer, in the form of the PILOT Extension (as set forth in the PILOT Schedule attached as Exhibit C hereof); and

WHEREAS, in compliance with Section 859-a of the Act, a public hearing was held on November 19, 2019, after public notice thereof was published on November 8, 2019, to hear all persons interested in the proposed financial assistance by the Issuer to the Company and the Sublessee in connection with the Facility and the form of the Notice of Public Hearing and Minutes of the Public Hearing are attached as Exhibits A & B hereto; and

WHEREAS, the Act authorizes and empowers the Issuer 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, the Company and the Sublessee have agreed to indemnify the Issuer against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated by the continued leasing and subleasing of the Facility.

NOW, THEREFORE, BE IT RESOLVED by the Town of Brookhaven Industrial Development Agency (a majority of the members thereof affirmatively concurring) that:

Section 1. The Issuer hereby finds and determines:

(a) By virtue of the Act, the Issuer 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 continued leasing of the Facility to the Company for further subleasing to the Sublessee will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of 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 proposed financial assistance with respect to the PILOT Extension 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 Brookhaven, 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 Issuer to grant the PILOT Extension to the Company and the Sublessee; and

(g) The Amended and Restated PILOT Agreement will be an effective instrument whereby the Issuer, the Company and the Sublessee set forth the terms and conditions of their agreement regarding the Company’s and Sublessee’s payments in lieu of real property taxes and the modification and extension of the PILOT Benefits; and

(h) The Recapture Agreement will be an effective instrument whereby the Issuer, the Company, and the Sublessee agree to the terms and conditions whereby the Agency may recapture certain financial benefits provided to the Company and the Sublessee; and

(i) The Amendment Documents will be effective instruments whereby the Issuer, the Company and the Sublessee effectuate the PILOT Extension.

Section 2. The Issuer has assessed all material information included in connection with the Company’s and the Sublessee’s application for financial assistance, including but not limited to, the cost-benefit analysis prepared by the Issuer and such information has provided the Issuer a reasonable basis for its decision to provide the financial assistance described herein to the Company and the Sublessee.

Section 3. In consequence of the foregoing, the Issuer hereby determines to: (i) grant the PILOT Extension to the Company and the Sublessee pursuant to the Amended and Restated PILOT Agreement, (ii) execute, deliver and perform the Amended and Restated PILOT Agreement, (iii) execute and deliver the Recapture Agreement; and (iv) execute and deliver the Amendment Documents.

Section 4. The form and substance of (i) the Amended and Restated PILOT Agreement, (ii) the Recapture Agreement, and (iii) the Amendment Documents (each in substantially the forms presented to or approved by the Issuer and which, prior to the execution and delivery thereof, may be redated and renamed) are hereby approved.

Section 5. Subject to the provisions of this resolution and the Lease Agreement, the PILOT Agreement and the Recapture Agreement, the Issuer hereby authorizes and approves continued economic benefits to be granted to the Company and the Sublessee in connection with the Facility in the form of continued abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit C hereof), consistent with the policies of the Issuer.

Section 6. The Company and the Sublessee are hereby notified that the tax 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 Agreement.

Section 7.

(a) The Chairman, Vice Chairman, Chief Executive Officer, or any member of the Issuer are hereby authorized, on behalf of the Issuer, to execute and deliver the Amended and Restated PILOT Agreement, the Amendment of Lease Agreement, the Recapture Agreement and the Amendment Documents, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, Vice Chairman, Chief Executive Officer, or any member of the Issuer shall approve, and such other related documents as may be, in the judgment of the Chairman and Issuer Counsel, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the “**Issuer Documents**”). The execution thereof by the Chairman, Vice Chairman, Chief Executive Officer, or any member of the Issuer shall constitute conclusive evidence of such approval.

(b) The Chairman, Vice Chairman, Chief Executive Officer, or any member of the Issuer are further hereby authorized, on behalf of the Issuer, to designate any additional Authorized Representatives of the Issuer (as defined in and pursuant to the Lease Agreement, as amended).

Section 8. The officers, employees and agents of the Issuer are hereby authorized and directed for and in the name and on behalf of the Issuer to do all acts and things required or provided for by the provisions of the Issuer 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 Issuer with all of the terms, covenants and provisions of the Issuer Documents binding upon the Issuer.

Section 9. This resolution shall take effect immediately.

STATE OF NEW YORK)

: SS.:

COUNTY OF SUFFOLK)

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

That I have compared the annexed extract of the minutes of the meeting of the Town of Brookhaven Industrial Development Agency (the “**Issuer**”), including the resolutions contained therein, held on the 20th day of November, 2019, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Issuer 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 Issuer Documents contained in this transcript of proceedings are all in substantially the form presented to the Issuer and/or approved by said meeting.

I FURTHER CERTIFY that (i) all members of the Issuer had due notice of said meeting, (ii) pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand this the 20th day of November, 2019.



Assistant Secretary

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York State General Municipal Law will be held by the Town of Brookhaven Industrial Development Agency (the “**Issuer**”) on the 19th day of November, 2019, at 10:00 a.m. local time, at the Town of Brookhaven Division of Economic Development, 2nd Floor, One Independence Hill, Farmingville, New York 11738, in connection with the following matters:

Warco, L.L.C., a New York limited liability company (the “**Company**”), has submitted a request to the Issuer for an extension of payments-in-lieu-of-taxes benefits on an approximately 6.35 acre parcel of land located on the south side of Ramsay Road, approximately 2,370 feet east of William Floyd Parkway, in Yaphank, Town of Brookhaven, Suffolk County, New York (more specifically known as Parcel “E” and as Suffolk County Tax Parcel Number 200-584-1-4.38), and the approximately 61,918 square foot building located thereon, which is leased by the Issuer to the Company and subleased by the Company to Frank Lowe Rubber & Gasket Co., Inc. (the “**Sublessee**”), and used by the Sublessee for the manufacturing and warehousing of gaskets, packing and sealing devices and other fabricated rubber products (the “**Facility**”). The Facility is owned, operated and/or managed by the Company and the Sublessee.

The Issuer has previously acquired the Facility and will continue to lease the Facility to the Company. The Issuer contemplates that it will provide financial assistance to the Company and the Sublessee in the form of the modification and extension of current abatements of real property taxes, consistent with the policies of the Issuer.

A representative of the Issuer will, at the above-stated time and place, hear and accept written comments from all persons with views in favor of or opposed to either the proposed financial assistance to the Company and the Sublessee or the location or nature of the Facility. At the hearing, all persons will have the opportunity to review the application for financial assistance filed by the Company and the Sublessee with the Agency and an analysis of the costs and benefits of the proposed Facility.

Dated: November 8, 2019

TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY

By: Lisa MG Mulligan
Title: Chief Executive Officer

EXHIBIT B

MINUTES OF PUBLIC HEARING HELD ON
November 19, 2019

TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY
(WARCO, L.L.C./FRANK LOWE RUBBER & GASKET CO., INC. FACILITY)

Section 1. Lisa MG Mulligan, Chief Executive Officer of the Town of Brookhaven Industrial Development Agency (the “**Issuer**”) called the hearing to order.

Section 2. Lisa MG Mulligan then appointed herself the hearing officer of the Issuer, to record the minutes of the hearing.

Section 3. The hearing officer then described the financial assistance proposed by the Issuer and the location and nature of the Facility as follows:

Warco, L.L.C., a New York limited liability company (the “**Company**”), has submitted a request to the Issuer for an extension of payments-in-lieu-of-taxes benefits on an approximately 6.35 acre parcel of land located on the south side of Ramsay Road, approximately 2,370 feet east of William Floyd Parkway, in Yaphank, Town of Brookhaven, Suffolk County, New York (more specifically known as Parcel “E” and as Suffolk County Tax Parcel Number 200-584-1-4.38), and the approximately 61,918 square foot building located thereon, which is leased by the Issuer to the Company and subleased by the Company to Frank Lowe Rubber & Gasket Co., Inc. (the “**Sublessee**”), and used by the Sublessee for the manufacturing and warehousing of gaskets, packing and sealing devices and other fabricated rubber products (the “**Facility**”). The Facility is owned, operated and/or managed by the Company and the Sublessee.

The Issuer has previously acquired the Facility and will continue to lease the Facility to the Company. The Issuer contemplates that it will provide financial assistance to the Company and the Sublessee in the form of the modification and extension of current abatements of real property taxes, consistent with the policies of the Issuer.

Section 4. The hearing officer then opened the hearing for comments from the floor for or against the proposed transfer of real estate, the other financial assistance proposed by the Issuer and the location and nature of the Facility. The following is a listing of the persons heard and a summary of their views:

N/A

Section 5. The hearing officer then asked if there were any further comments, and, there being none, the hearing was closed at 10:30 a.m.

EXHIBIT C

Proposed PILOT Schedule

Schedule of payments-in-lieu-of-taxes: Town of Brookhaven, (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), Longwood Central School District, Suffolk County and Appropriate Special Districts

<u>Year</u>	<u>PILOT Payment</u>
1	\$32,185
2	\$64,371
3	\$96,556
4	\$128,741
5	\$160,926