

Date: September 16, 2020

At a meeting of the Town of Brookhaven Industrial Development Agency (the “Agency”), held electronically via webinar on the 16th day of September, 2020, the following members of the Agency were:

Present: Frederick C. Braun III, Chairman
Felix J. Grucci, Jr., Vice Chair
Martin Callahan, Treasurer
Scott Middleton, Asst. Treasurer
Ann-Marie Scheidt, Secretary
Gary Pollakusky, Asst. Secretary
Frank C. Trotta, Member

Recused:

Excused:

Also Present: Lisa M.G. Mulligan, Chief Executive Officer
Lori LaPonte, Chief Financial Officer
James M. Tullo, Deputy Director
Jocelyn Linse, Executive Assistant
Terri Alkon, Administrative Assistant
Amy Illardo, Administrative Assistant
Annette Eaderesto, Esq., Counsel to the Agency
William F. Weir, Esq., Transaction Counsel
Howard R. Gross, 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 modification of payment-in-lieu-of-tax benefits with respect to the First Realty Associates LLC/Global Tissue Group, Inc. 2008 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
Grucci
Callahan
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 FIRST REALTY
ASSOCIATES LLC/GLOBAL TISSUE GROUP, INC. 2008
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 "**Agency**") 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 Agency previously provided its assistance in the acquisition of an approximately 23.4303-acre vacant parcel of land located near the intersection of the northerly side of Long Island Avenue and the westerly side of Patchogue Yaphank Road, West Yaphank, Town of Brookhaven, Suffolk County, New York (further identified as Tax Map. Nos. 0200-663.00-02.00-001.001, 0200-703.00-01.00-030.00, 0200-704.00-01.00-14.001, and 0200-663.00-02.00-003.002), and the construction and equipping thereon of an approximately 166,300 square foot building including, without limitation, the furnishing and equipping of warehouse and distribution space to be used for the manufacturing and distribution of paper products such as facial tissues, bath tissues, napkins and paper towels, to be leased by the Agency to First Realty Associates LLC (the "**Company**"), and subleased by the Company to, and used by, Global Tissue Group, Inc. (the "**Sublessee**"), in the manufacturing and distribution of paper products for customers of the Sublessee (the "**Facility**"); and

WHEREAS, the Agency currently leases the Facility to the Company pursuant to a certain Lease Agreement, dated as of July 1, 2008 (the "**Original Lease Agreement**"), between the Agency and the Company, a memorandum of which Lease Agreement was to be recorded in the Suffolk County Clerk's office; and

WHEREAS, in connection with the leasing and subleasing of the Facility, the Agency, the Company, and the Sublessee entered into a certain Payment-in-Lieu-of Tax Agreement, dated as of July 1, 2008 (the "**Original PILOT Agreement**"), whereby the Company and Sublessee agreed to make payments in lieu of taxes on the Facility; and

WHEREAS, in connection with the leasing and subleasing of the Facility, the Agency, the Company, and the Sublessee entered into a certain Recapture Agreement, dated as of July 1, 2008 (the "**Original Recapture Agreement**"); and

WHEREAS, the Company and Sublessee have now requested the Agency's assistance in granting an extension of benefits provided under the Original PILOT Agreement for a period of six (6) years (the "**PILOT Extension**"); and

WHEREAS, the Agency 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 July 1, 2008 and amended and restated as of September 1, 2020 or such other date as agreed upon by the Chairman, the Chief Executive Officer and counsel to the Agency (the “**Amended and Restated PILOT Agreement**”; and together with the Original PILOT Agreement, the “**PILOT Agreement**”), by and among the Agency, the Company and the Sublessee; and

WHEREAS, the Original Lease Agreement will be amended pursuant to a certain Amendment to Lease Agreement, dated as of September 1, 2020 or such other date as agreed upon by the Chairman, the Chief Executive Officer and counsel to the Agency (the “**Lease Amendment**”; and together with the Original Lease Agreement, the “**Lease Agreement**”), by and between the Agency and the Company; and

WHEREAS, the Agency, the Company, and the Sublessee will amend the Original Recapture Agreement pursuant to a certain Amended and Restated Recapture Agreement, dated as of September 1, 2020 or such other date as agreed upon by the Chairman, the Chief Executive Officer and counsel to the Agency (the “**Amended and Restated Recapture Agreement**”; and together with the Original Recapture Agreement, the “**Recapture Agreement**”), by and among the Agency, 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 Agency, 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 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 the PILOT Extension (as set forth in the PILOT Schedule attached as Exhibit C hereof); and

WHEREAS, in connection with the abatement of real property taxes as set forth in the PILOT Schedule on Exhibit C hereof, the current pro-rata allocation of PILOT payments to each affected tax jurisdiction in accordance with Section 858(15) of the Act and the estimated difference between the real property taxes on the Facility and the PILOT payments set forth on the PILOT Schedule on Exhibit C hereof are more fully described in the Cost Benefit Analysis (“**CBA**”) developed by the Agency in accordance with the provisions of Section 859-a(5)(b) of the Act, a copy of which CBA is attached hereto as Exhibit D; and

WHEREAS, in compliance with Section 859-a of the Act, a public hearing was held on September 15, 2020, after public notice thereof was published on September 5, 2020, to hear all persons interested in the proposed financial assistance by the Agency 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 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, 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 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 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 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 Agency to grant the PILOT Extension to the Company and the Sublessee; and

(g) The Lease Amendment will be an effective instrument whereby the Agency and the Company amend the Original Lease Agreement to extend the Lease Term (as defined therein) and reflect the granting of the PILOT Extension.

(h) The Amended and Restated 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 Sublessee's payments in lieu of real property taxes and the modification and extension of the PILOT Benefits; and

(i) The Amended and Restated Recapture Agreement will be an effective instrument whereby the Agency, 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

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

Section 2. The Agency 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 Agency and such information has provided the Agency 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 Agency hereby determines to: (i) amend the Original Lease Agreement pursuant to the terms of the Lease Amendment, (ii) execute deliver and perform the Lease Amendment, (iii) grant the PILOT Extension to the Company and the Sublessee pursuant to the Amended and Restated PILOT Agreement, (iv) execute, deliver and perform the Amended and Restated PILOT Agreement, (v) execute and deliver the Amended and Restated Recapture Agreement; and (vi) execute and deliver the Amendment Documents.

Section 4. The form and substance of (i) the Lease Amendment, (ii) the Amended and Restated PILOT Agreement, (iii) the Amended and Restated Recapture Agreement, and (iv) the Amendment 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 5. Subject to the provisions of this resolution and the Lease Agreement, the PILOT Agreement and the Recapture Agreement, the Agency 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 Agency. In connection with the abatement of real property taxes as set forth in the PILOT Schedule on Exhibit C hereof, the current pro-rata allocation of PILOT payments to each affected tax jurisdiction in accordance with Section 858(15) of the Act and the estimated difference between the real property taxes on the Facility and the PILOT payments set forth on the PILOT Schedule on Exhibit C hereof are more fully described in the CBA attached hereto as Exhibit D.

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 Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Amended and Restated PILOT Agreement, the Lease Amendment, the Amended and Restated 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 Agency shall approve, and such other related documents as may be, in the judgment of the Chairman and Agency Counsel, 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, Chief Executive Officer, or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, Vice Chairman, Chief Executive 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, as amended).

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.

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that due to the Novel Coronavirus (COVID-19) Emergency State and Federal bans on large meetings or gatherings and pursuant to Governor Cuomo's Executive Order 202.1 issued on March 12, 2020, as amended to date, permitting local governments to hold public hearings by telephone and video conference and/or similar device, the Public Hearing scheduled for September 15, 2020, at 10:30 a.m., local time, being held by the Town of Brookhaven Industrial Development Agency (the "**Agency**"), in accordance with the provisions of Article 18-A of the New York General Municipal Law will be held electronically via conference call instead of a public hearing open for the public to attend. Members of the public may listen to the Public Hearing, and comment on the Project (defined below) and the benefits to be granted by the Agency to the Company (defined below) during the Public Hearing, by calling (712) 770-5505 and entering access code 884-124. Comments may also be submitted to the Agency in writing or electronically. Minutes of the Public Hearing will be transcribed and posted on the Agency's website, all in connection with the following matters:

The Agency has previously provided assistance to First Realty Associates LLC, a limited liability company organized and existing under the laws of the State of New York (the "**Company**"), and Global Tissue Group, Inc., a business corporation organized and existing under the laws of the State of New York (the "**Sublessee**"), in the continuing ownership of an approximately 23.4303-acre vacant parcel of land located near the intersection of the northerly side of Long Island Avenue and the westerly side of Patchogue Yaphank Road, West Yaphank, Town of Brookhaven, Suffolk County, New York (further identified as Tax Map. Nos. 0200-663.00-02.00-001.001, 0200-703.00-01.00-030.00, 0200-704.00-01.00-15.001, and 0200-663.00-02.00-003.002), and the construction and equipping thereon of an approximately 166,300 square foot building including, without limitation, the furnishing and equipping of warehouse and distribution space to be used for the manufacturing and distribution of paper products such as facial tissues, bath tissues, napkins and paper towels (collectively, the "**Facility**"), which Facility is leased by the Agency to the Company pursuant to a certain Lease Agreement, dated as of July 1, 2008 (the "**Lease Agreement**"), and subleased by the Company to the Sublessee pursuant to a certain Sublease Agreement, dated as of July 1, 2008 (the "**Sublease Agreement**"), for use by the Sublessee in the manufacturing and distribution of paper products for customers of the Sublessee. In connection with the leasing and subleasing of the Facility, the Agency, the Company and the Sublessee entered into a certain Payment-in-Lieu-of-Tax Agreement, dated as of July 1, 2008 (the "**PILOT Agreement**"), whereby the Company and the Sublessee agreed to make payments in lieu of property taxes on the Facility (the "**PILOT Payments**").

The Company and the Sublessee have now requested the Agency's assistance in connection with an extension of the abatement of real property taxes on the Facility for a period

of up to six (6) years. The Facility will continue to be initially owned, managed and/or operated by the Company.

The Agency contemplates that it will provide financial assistance to the Company and the Sublessee in the form of continued abatement of real property taxes on the Facility consistent with the uniform tax exemption policies (“**UTEP**”) of the Agency.

A representative of the Agency 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. Prior to the hearing, all persons will have the opportunity to review on the Agency’s website (<https://brookhavenida.org/>), 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: September 5, 2020

TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY

By: Lisa MG Mulligan
Title: Chief Executive Officer

EXHIBIT B

FORM OF MINUTES OF PUBLIC HEARING HELD ON
SEPTEMBER 15, 2020

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	\$10,672
2	\$66,095
3	\$134,833
4	\$206,294
5	\$280,560
6	\$357,714

EXHIBIT D

Cost Benefit Analysis