

Date: July 19, 2017

At a meeting of the Town of Brookhaven Industrial Development Agency (the "Agency"), held at 1 Independence Hill, 3rd Floor, Farmingville, New York 11738 on the 19th day of July, 2017 the following members of the Agency were:

Present: Frederick C. Braun, III
Martin Callahan
Felix J. Grucci, Jr.
Michael Kelly
Scott Middleton
Gary Pollakusky

Recused:

Absent: Ann-Marie Scheidt

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 pertaining to the modification and extension of certain payment-in-lieu-of tax benefits for a certain industrial development facility more particularly described below (McKeon Realty Associates, LLC/ McKeon Rolling Steel Door Co., Inc. Facility).

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

Voting Aye

Braun
Callahan
Grucci
Kelly
Middleton
Pollakusky

Voting Nay

RESOLUTION OF THE TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE MODIFICATION AND EXTENSION OF THE PILOT BENEFITS OF A CERTAIN INDUSTRIAL DEVELOPMENT FACILITY FOR MCKEON REALTY ASSOCIATES, LLC AND FOR MCKEON ROLLING STEEL DOOR CO., INC. FACILITY, AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE AMENDMENT AND AN AMENDED AND RESTATED PAYMENT-IN-LIEU OF TAX AGREEMENT AND APPROVING THE FORM, SUBSTANCE AND EXECUTION AND DELIVERY 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 358 of the Laws of 1970 of the State of New York, as the same 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, among other things, to assist with certain industrial development projects as authorized by the Act; and

WHEREAS, the Agency has previously assisted in the acquisition of an approximately 4.17 acre parcel of land located within the Brookhaven Industrial Park at 44 Sawgrass Drive, Bellport, Town of Brookhaven, Suffolk County, New York (the “**Land**”) and the construction and equipping thereon of an approximately 60,000 square foot building including, without limitation, the furnishing and equipping of warehouse space to be used for manufacturing and distribution of materials and equipment (the “**Improvements and Equipment**”; and, together with the Land, the “**Facility**”), which Facility is being leased by the Agency to McKeon Realty Associates, LLC, a limited liability company organized and existing under the laws of the State of New York (the “**Company**”), and subleased by the Company to, and used by, McKeon Rolling Steel Door Co., Inc., a business corporation organized and existing under the laws of the State of New York and/or its affiliates (collectively, the “**Sublessee**”), for the manufacture and distribution of overhead, coiling and stationary industrial doors, specialty closures, security grilles and related products to individual customers, distributors and contractors throughout the continental United States; and

WHEREAS, the Agency currently leases the Facility to the Company pursuant to a certain Lease Agreement, dated as of December 1, 2006 (the “**Original Lease Agreement**”), between the Agency and the Company, a memorandum of which Original Lease Agreement was to be recorded in the Suffolk County Clerk’s office; and

WHEREAS, the Company subleased the Facility to the Sublessee pursuant to and in accordance with a certain Sublease Agreement, dated as of December 1, 2006 (the “**Sublease Agreement**”), between the Company and the Sublessee, and a memorandum of which Sublease Agreement was to be recorded in the Suffolk County Clerk’s office; and

WHEREAS, in connection with the leasing and the subleasing of the Facility, the Agency, the Company and the Sublessee entered into a Payment-in-Lieu-of-Tax Agreement, dated as of December 1, 2006 (the “**Original PILOT Agreement**”), whereby the Company

and the Sublessee agreed to make certain payments-in-lieu-of real property taxes on the Facility (as defined therein); and

WHEREAS, in connection with the leasing and the subleasing of the Facility, the Agency, the Company and the Sublessee entered into an Environmental Compliance and Indemnification Agreement, dated as of December 1, 2006 (the “**Environmental Compliance and Indemnification Agreement**”), whereby the Company and the Sublessee agreed to comply with all Environmental Laws (as defined therein) applicable to the Original Facility; and

WHEREAS, 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 term of up to five (5) additional years (the “**PILOT Extension**”); and

WHEREAS, the PILOT Extension will permit the Company and the Sublessee to retain the more than 65 jobs at the Facility and to provide the Company and the Sublessee with much needed economic relief as the expenses and costs of doing business on Long Island increases each year; and

WHEREAS, the PILOT Extension shall coincide with the terms of the Original Lease Agreement, as amended by a certain Amendment of Lease, dated as of July 1, 2017 or such other date as may be determined by the Chairman, Chief Executive Officer or counsel to the Agency (the “**Amendment of Lease**”; and, together with the Original Lease Agreement, the “**Lease Agreement**”), between the Agency and the Company; 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, consistent with the policies of the Agency, all pursuant to a certain Amended and Restated PILOT Agreement, dated as of July 1, 2017 or such other date as may be determined by the Chairman, Chief Executive Officer or counsel to the Agency (the “**Amended and Restated PILOT**”; and, together with the Original PILOT Agreement, the “**PILOT Agreement**”); 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, a public hearing (the “**Hearing**”) was held on July 10, 2017, so that all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency or the location or nature of the Facility could be heard; and

WHEREAS, notice of the Hearing was given on June 28, 2017 and such notice (together with proof of publication) is substantially in the form annexed hereto as Exhibit A; and

WHEREAS, the minutes of the Hearing will be annexed hereto as Exhibit B; and

WHEREAS, the Agency has given due consideration to the application of the Company and the Sublessee and to the representations by the Company and the Sublessee that the actions of the Agency as contemplated by this resolution, the Amendment of Lease and the Amended and Restated PILOT Agreement, are either an inducement to the Company and the Sublessee to maintain and expand the Facility in the Town of Brookhaven or are necessary to maintain the competitive positions of the Company and the Sublessee in their respective industries; 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 PILOT Extension and the continued leasing of the Facility to the Company; and

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;

(b) The Facility constitutes a "project", as such term is defined in the Act;

(c) The continued leasing of the Facility by the Agency to the Company and further subleasing by the Company to the Sublessee will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the Town of Brookhaven and the State of New York and improve their standard of living and thereby serve the public purposes of the Act;

(d) Based upon representations of the Company, the Sublessee and their counsel, the Facility continues to conform with the local zoning laws and planning regulations of the Town of Brookhaven and all regional and local land use plans for the area in which the Facility are located;

(e) The Facility and the operations conducted therein does 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;

(f) The Agency has determined that the proposed PILOT Extension will promote and further the purposes of the Act;

(g) It is desirable and in the public interest for the Agency consent to the PILOT Extension and to continue to lease the Facility to the Company for further subleasing of the Facility by the Company to the Sublessee;

(h) The Amendment of Lease will be an effective instrument whereby the Agency and the Company agree to extend the term of the Original Lease for a term of up to five (5)

years and the Agency will continue to lease the Facility to the Company and the Company will sublease the Facility to the Sublessee; and

(i) The Amended and Restated Payment-in-Lieu-of-Tax Agreement, will be an effective instrument whereby the Agency, the Company and the Sublessee set forth the terms and conditions of the PILOT Extension regarding the Company's and the Sublessee's payments in lieu of real property taxes in connection with the Facility.

Section 2. Subject to the provisions of this resolution, the Agency hereby determines to: (i) grant an extension of the Original Lease Agreement for an additional term of up to five (5) years Facility to the Company pursuant to the Amendment of Lease, (ii) execute, deliver and perform the Amendment of Lease, and (iii) amend and restate the Original PILOT Agreement pursuant to the Amended and Restated PILOT Agreement to reflect the PILOT Extension, (iv) execute, deliver and perform the Amended and Restated PILOT Agreement.

Section 3. Subject to the provisions of this resolution, the Agency is hereby authorized to grant the PILOT Extension 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 form and substance of the Amendment of Lease and the Amended and Restated PILOT Agreement 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) are hereby approved.

Section 5. Subject to the provisions of this resolution,

(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 Amendment of Lease and the Amended and Restated PILOT Agreement in substantially the form 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, Chief Executive Officer, or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, Chief Executive Officer, or any member of the Agency is further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency.

Section 6. Subject to the provisions of this resolution, the Agency hereby authorizes and approves the following economic benefits to be granted to the Company and the Sublessee in connection with the Facility in the form of the PILOT Extension (as set forth

in the PILOT Schedule attached as Exhibit C hereof), consistent with the policies of the Agency, consistent with the policies of the Agency.

Section 7. The Company and the Sublessee hereby agree to comply with Section 875 of the Act. The Company and the Sublessee further agree that the PILOT Extension pursuant to the Act is subject to termination and recapture of benefits pursuant to Section 875 of the Act.

Section 8. The law firm of Nixon Peabody LLP is hereby appointed Transaction Counsel to the Agency.

Section 9. Counsel to the Agency and Transaction Counsel are hereby authorized to work with counsel to the Company and others to prepare, for submission to the Agency, all documents necessary to effect the described PILOT Extension in the foregoing resolution.

Section 10. 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 11. Any fees, expenses, including without limitation, legal fees and expenses, incurred by the Agency with respect to the Facility shall be paid by the Company and the Sublessee. By acceptance hereof, the Company and the Sublessee agree to pay such fees and expenses and further agrees to defend and 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 12. This resolution shall take effect immediately.

ADOPTED: July 19, 2017

ACCEPTED: _____ 2017

MCKEON REALTY ASSOCIATES, LLC

By: _____

Name:

Title:

**MCKEON ROLLING STEEL DOOR
CO., INC.**

By: _____

Name:

Title:

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 "Agency"), including the resolutions contained therein, held on the 19th day of July, 2017, 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.

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 in all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 19th day of July, 2017.

By:  _____
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 on the 10th day of July, 2017 at 9:00 a.m., local time, at One Independence Hill, 2nd Floor, Farmingville, New York, in connection with the following matters:

The Town of Brookhaven Industrial Development Agency (the “**Agency**”), has previously assisted in the acquisition of an approximately 4.17 acre parcel of land located within the Brookhaven Industrial Park at 44 Sawgrass Drive, Bellport, Town of Brookhaven, Suffolk County, New York (the “**Land**”) and the construction and equipping thereon of an approximately 60,000 square foot building including, without limitation, the furnishing and equipping of warehouse space to be used for manufacturing and distribution of materials and equipment (the “**Improvements and Equipment**”); and, together with the Land, the “**Facility**”), which Facility is being leased by the Agency to McKeon Realty Associates, LLC, a limited liability company organized and existing under the laws of the State of New York (the “**Company**”), and subleased by the Company to, and used by, McKeon Rolling Steel Door Co., Inc., a business corporation organized and existing under the laws of the State of New York and/or its affiliates (collectively, the “**Sublessee**”), for the manufacture and distribution of overhead, coiling and stationary industrial doors, specialty closures, security grilles and related products to individual customers, distributors and contractors throughout the continental United States. The Facility is owned by the Company and operated by the Sublessee.

The Company and the Sublessee have requested the Agency’s assistance in connection with an extension of the abatement of real property taxes on the Facility for an additional term of up to five (5) additional years.

The Agency contemplates that it will provide financial assistance to the Company and the Sublessee in the form of an extension of the abatement of real property taxes for a period of up to five (5) years, consistent with the policies 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 the proposed financial assistance to the Company and the Sublessee.

Dated: June 28, 2017

TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY

By: Lisa MG Mulligan
Title: Chief Executive Officer

4. The Deputy Director then asked if there were any further comments and, there being none, the hearing was closed at 11:00 a.m.

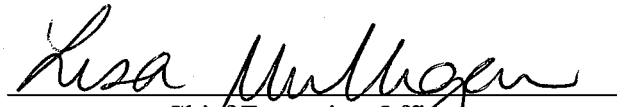

Chief Executive Officer

EXHIBIT C

Form of Proposed PILOT Benefits

Formula for In-Lieu-of-Taxes Payment: 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), Suffolk County, South Country Central School District and Appropriate Special Districts

<u>Year</u>	<u>Proposed PILOT Payment</u>
1	\$8,604
2	\$24,659
3	\$50,305
4	\$76,967
5	\$104,675