

June 6, 2016

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Hon. Cheryl Dinolfo
Monroe County Executive
39 West Main Street
County Office Building
Rochester, New York 14614
CERTIFIED MAIL RECEIPT #:
7015 1520 0002 8537 2332

Mr. Kevin Tubiolo
Collector of Fees and Taxes
B-3 County Office Building
39 West Main Street
Rochester, New York 14614
CERTIFIED MAIL RECEIPT #:
7015 0640 0005 6198 5023

Mr. Jack Moore, Supervisor
Henrietta Town Hall
475 Calkins Road
Henrietta, New York 14467
CERTIFIED MAIL RECEIPT #:
7015 1520 0003 5211 0645

Dr. J. Graham, Superintendent
Rush-Henrietta Central School District
2034 Lehigh Station Road
Henrietta, New York 14467
CERTIFIED MAIL RECEIPT #:
7015 1520 0003 5211 0652

Mr. Nathan T. Gabbert, Assessor
Henrietta Town Hall
475 Calkins Road
Henrietta, New York 14467
CERTIFIED MAIL RECEIPT #:
7015 1520 0003 5211 0669

Re: County of Monroe Industrial Development Agency ("COMIDA")
Riverwood Tech Campus, LLC Project – 4545 East River Road in the Town of
Henrietta, New York

Gentlemen and Ms. Dinolfo:

Enclosed herewith please find a copy of the Payment In Lieu of Tax Agreement, the Application for Real Property Tax Exemption and COMIDA Checklist with respect to the above-captioned matter. Also enclosed for your perusal are copies of the lease and leaseback agreements.

Very truly yours,


Rachel Baranello Endress

MJT/lap

Enclosures

cc: COMIDA
Fred J. Rainaldi
Salvatore Mangione, Esq.

COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY

AND

RIVERWOOD TECH CAMPUS, LLC

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

Tax Map No.

174.03-2-1.12

Affected Tax Jurisdictions:

County of Monroe
Town of Henrietta
Rush-Henrietta Central School District

Dated as of May 1, 2016

PAYMENT IN LIEU OF TAX AGREEMENT

THIS PAYMENT IN LIEU OF TAX AGREEMENT (the "PILOT Agreement") made as of May 1, 2016, is by and between the **COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, having its offices at 8100 CityPlace, 50 West Main Street, Rochester, New York 14614 (the "Agency"), and **RIVERWOOD TECH CAMPUS, LLC**, a limited liability company formed and existing under the laws of the State of New York with offices at 205 St. Paul Street, Suite 200, Rochester, New York 14604 (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 55 of the Laws of 1972 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Agency has agreed to acquire a leasehold or other interest in a portion of an approximately 93.7-acre parcel of land located at 4545 East River Road in the Town of Henrietta, County of Monroe and State of New York [Tax Map No. 174.03-2-1.12], and to assist in the renovation and revitalization of the existing approximately 365,000 square-foot former Kodak Marketing Education Center located thereon (the "Facility"), a description of which is annexed hereto as **Exhibit A**; and related site work; and

WHEREAS, the Agency has agreed to lease the Facility to the Company; and

WHEREAS, pursuant to Section 874(1) of the Act, the Agency is exempt from the payment of taxes imposed upon real property and improvements owned by it or under its jurisdiction, control or supervision other than special ad valorem levies, special assessments and service charges against real property, which are or may be imposed for special improvements or special district improvements; and

WHEREAS, the Town of Henrietta, pursuant to a letter to the Agency dated October 12, 2015 (a copy of which is annexed hereto as **Exhibit B**), requested that the Agency enter into a "negotiated PILOT Agreement" and at its October 20, 2015 meeting, the Agency approved same; and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provisions for payments in lieu of taxes by the Company to the County of Monroe, the Town of Henrietta and the Rush-Henrietta Central School District (collectively, the "Taxing Jurisdictions").

NOW, THEREFORE, in consideration of the Agency providing the Facility and in consideration of the covenants herein contained, it is mutually agreed as follows:

Section I. Payment in Lieu of Ad Valorem Real Property Taxes.

Tax Abatement Policy. Subject to completion and filing by the applicable tax status date of New York State form RP-412-a, Application for Real Property Tax Exemption, (the "Exemption Application") under Section 412-(a) of the New York State Real Property Tax Law and Section 874 of the Act and as long as the Facility is leased by the Agency and leased back to the Company ("Leased"), the Company agrees to pay annually to the Taxing Jurisdictions as a payment in lieu of taxes, an amount equal to 100% of the real estate taxes ("Real Estate Taxes"), less the percentages of exemption set forth on the schedule below. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the Affected Taxing Jurisdictions.

| YEAR OF EXEMPTION | PERCENTAGE OF EXEMPTION |
|------------------------------|------------------------------------|
| 1 | 100% |
| 2 | 100% |
| 3 | 100% |
| 4 | 100% |
| 5 | 100% |
| 6 | 100% |
| 7 | 100% |
| 8 | 100% |
| 9 | 100% |
| 10 | 100% |
| 11-15 | 75% |
| 16-20 | 50% |

Notwithstanding anything to the contrary set forth herein, it is understood and agreed that, should the Company be obligated to pay any Taxing Jurisdictions any amounts in the nature of general taxes, general assessments, service charges, or governmental charges of a similar nature, with respect to the interest of the Agency or the Company, or their respective successors and assigns, in the Facility, or the occupancy of the Facility by the Company (but not including, by way of example, (i) special assessments, special ad valorem levies or governmental charges in the nature of utility charges, including, but not limited to, water, solid waste, sewage treatment, or sewer or other rents, rates and charges; (ii) sales taxes and recording taxes; (iii) income taxes of the Company), the Company's obligations to such Taxing Jurisdictions hereunder shall be reduced by the amount of such amounts in the nature of general taxes, general assessments, service charges, or governmental charges of a similar nature which the Company shall be so obligated to pay. The Company shall give the respective Taxing Jurisdictions thirty (30) days' prior written notice of its intention to claim any credit pursuant to the provisions of this paragraph, if practicable.

Further, provided that:

(i) Jobs Requirement. Upon full occupancy of the Facility, the Company will have created and/or executed leases with various tenants who will have created a minimum of one hundred (100) new full-time jobs. Each tenant shall have three (3) years from the commencement of its respective lease at the Facility to create its pro rata share of jobs. A tenant's pro rata share of jobs shall be its percentage of the Facility it is leasing multiplied by 100 (i.e. if a tenant leases 22% of the Facility, it would be responsible for creating 22 new jobs: $22/100 \times 100$). The job creation requirement shall commence when the Facility is (1) substantially complete, (2) the Company receives a Certificate of Occupancy and (3) the Facility is reassessed by the Town of Henrietta Assessor at full value; and

(ii) Compliance Report. The Company shall report its compliance with these provisions as requested by the Agency, or its Project Compliance Monitor; and

(iii) Job Failure. If (i) the one hundred (100) new full-time jobs are not created upon full occupancy of the Facility, (ii) a tenant at the Facility does not create its pro rata share of jobs within the required three (3) year period and the job deficiency is not covered by other tenants in the Facility or (iii) once said jobs are created, they are not continuously maintained during the balance of the term hereof (e.g. if 25 new full-time jobs are created in the first year of the term hereof, those jobs or their replacements, must, at a minimum, be maintained for the balance of the term of this PILOT Agreement so that the job level does not drop below what was previously created), the exemption schedule will revert back to Section 485-b of the New York Real Property Tax Law and the Company agrees to pay in any year for which the job creation requirements are not met (a "Disqualifying Year"), as an additional payment in lieu of taxes, an amount equal to the difference between the real estate tax benefits received in years one through the Disqualifying Year under this PILOT Agreement and the real estate tax benefits which would have been received in years one through the Disqualifying Year under Section 485-b of the New York Real Property Tax Law.

(iv) Waiver Process. The payments required hereunder for any non-compliance shall be paid by the Company to any and all Affected Taxing Jurisdictions whether or not billed. However, if the Company has made a good faith effort to achieve the job creation requirement, it may apply in writing for relief from the obligation for repayment of taxes abated, based on a showing of unforeseen economic circumstances, fiscal hardship, or other good cause. Application for relief from the repayment obligation shall be made to the Agency, which shall examine the application and grant relief, in whole or in part, from the repayment obligation or grant an alternate schedule for attaining the job creation requirement.

(v) Benefit Period. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than twenty (20) consecutive years. The Company agrees that it will not seek any tax exemption for the Facility which would provide benefits for more than twenty (20) consecutive years. Notwithstanding the foregoing, nothing contained in this PILOT Agreement shall render the Company ineligible for a continued tax exemption under Real Property Tax Law Section 485-b or any other applicable statute if this PILOT Agreement is terminated prior to the expiration of the exemption schedule set forth herein.

Section II. Special District Charges, Special Assessments and Other Charges.

(a) Special district charges, special assessments, and special ad valorem levies, unless otherwise exempt, and Monroe County Pure Waters charges are to be paid in full in accordance with normal billing practices.

(b) The Company shall pay, within the applicable grace period and without penalty, the amounts set forth in Sections I and II(a) hereof applicable to taxes, special ad valorem levies, special assessments or similar tax equivalents, less the percentages of exemption on similar property subject to taxation by the Taxing Jurisdictions, as appropriate.

Section III. Payment Due Date and Payee Allocation.

As long as the Facility is owned or leased by the Agency, the Company agrees to pay annually to the Affected Taxing Jurisdictions as payment in lieu of taxes, on or before October 1 of each year for school taxes and on or before January 30 of each year for County and Town taxes, the amounts set forth in Section I hereof. The Company shall make PILOT payments in the amounts and on the dates specified above, whether or not any such PILOT payment is billed by the Agency, the Affected Taxing Jurisdictions or any other party. Payments-in-lieu-of-taxes shall be paid to the Affected Taxing Jurisdictions in the same proportion as ad valorem taxes would have been allocated but for the Agency's involvement, unless the Affected Taxing Jurisdictions have consented in writing to a different allocation.

The parties agree and acknowledge the payments made hereunder are to obtain revenues for public purposes, and to provide a revenue source that the Affected Taxing Jurisdictions would otherwise lose because the subject parcel(s) are not on the tax rolls.

Section IV. Lease Termination.

In the event that the Facility is no longer Leased by the Agency, and the Company is ineligible for a continued tax exemption under some other tax incentive program, or the exemption is less than that described in Section I herein, the Company agrees to pay no later than the next tax lien date (plus any applicable grace period), to each of the Taxing Jurisdictions, an amount equal to the taxes and assessments which would have been levied on the Facility if the Facility had been classified as fully taxable as of the date the Facility is no longer Leased by the Agency or the date of loss of eligibility of all or a portion of the exemption described herein. Notwithstanding anything contained herein to the contrary, in the event that the Facility, or any portion thereof, is no longer Leased by the Agency, or if the Agency's interest is otherwise transferred to the Company or any person or entity not otherwise entitled to an exemption from taxation (collectively with the Company, the "Transferee") such that the Facility, or portion thereof, is subject to immediate assessment and taxation and is taxed pro rata for the unexpired portion of any fiscal year during which said transfer of title to the Transferee occurred pursuant to the provisions of Section 520 of the New York Real Property Tax Law, any amounts payable or made, as the case may be, pursuant to this PILOT Agreement by the Company to the respective Taxing Jurisdictions shall be reduced or refunded, as the case may be, in accordance with 10 Op. Off. Real Property Services 87 (1999), from the amount of taxes required to be paid pursuant to such Section 520 with respect to the fiscal year during which said transfer of title to

the Transferee occurred. The provisions of the immediately preceding sentence shall survive the termination or expiration of the leaseback agreement, dated as of the date hereof, entered into between the Agency and Company (the "Leaseback Agreement").

Section V. Assessment Challenges.

(a) The Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this PILOT Agreement, as if and to the same extent as if the Company were the owner of the Facility.

(b) The Company and its tenants and subtenants shall have all of the rights and remedies of a taxpayer with respect to any proposed assessment or change in assessment with respect to the Facility by any of the Taxing Jurisdictions and likewise shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any tax equivalent provided for herein. If the assessment of all or a portion of the Facility is reduced as a result of any such proceedings so that the Company would be entitled to receive a refund or refunds of monies paid to the respective Taxing Jurisdictions (taking into account, however, the impact of any abatement allowed the Company hereunder), the Company shall be entitled to receive a refund or refunds from the applicable Taxing Jurisdictions of any payment in lieu of real estate taxes and assessment paid pursuant to this PILOT Agreement in such amount.

Section VI. Changes in Law.

To the extent the Facility is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

Section VII. Events of Default.

(a) If payments are not made as provided for herein, the Agency and/or Taxing Jurisdictions, individually or collectively, shall be entitled to pursue any and all remedies afforded them at law or in equity.

Notwithstanding anything contained herein to the contrary, upon the occurrence of (i) the sale or closure of the Facility; (ii) a significant unapproved change in use of the Facility; (iii) a significant reduction in employment at the Facility (as defined below); (iv) the Company abandons or otherwise vacates the County of Monroe; or (v) the failure by the Company to make any payments (singularly or collectively an "Event of Default"), the Agency shall have the right to recapture real property tax abatements provided hereunder pursuant to the following schedule:

| Year of Recapture | Percent of Recapture, Applicable to Current Year and All Prior Years |
|--------------------------|---|
| 1 | 100% |
| 2 | 100% |
| 3 | 50% |
| 4 | 50% |
| 5 | 25% |
| 6 | 25% |
| After year 6 | At Agency's Discretion, 25% or Less |

Any such recapture is at the sole and exclusive discretion of the Agency. The Agency shall notify the Company in writing within ninety (90) days of such Event of Default of its intent to recapture the PILOT benefits (or any portion thereof); provided, however, that such period shall not commence to run until the Agency has been properly notified or ascertains any such Event of Default. For purposes of this Section only, a "significant reduction in employment" shall mean more than twenty percent (20%) of the new full-time jobs created at the Facility. Any and all recaptured payments received pursuant to this provision shall be remitted to the Taxing Jurisdictions on a pro rata basis within sixty (60) days of receipt of payment.

(b) If payments pursuant to Section II(a) herein are not made by the due dates, or if any other payment required to be made hereunder is not made by the last day of any applicable cure period within which said payment can be made without penalty, the Company shall pay penalties and interest as follows: With respect to payments to be made pursuant to Section II(a) herein, if said payment is not received by the due date defined in Section II(a) herein, the Company shall pay, in addition to said payment, (i) a late payment penalty equal to five percent (5%) of the amount due and (ii) for each month, or any part thereof, that any such payment is delinquent beyond the first month, interest on the total amount due plus a late payment penalty, in an amount equal to one percent (1%) of the amount due per month. With respect to all other payments due hereunder, if said payment is not paid within any applicable cure period, the Company shall pay, in addition to said payment, the greater of the applicable penalties and interest or penalties and interest which would have been incurred had payments made hereunder been tax payments to the Affected Tax Jurisdictions.

Section VIII. Transfer of Facility.

In the event that the Facility is transferred from the Agency to the Company (the lease/leaseback agreements are terminated), and the Company is ineligible for a continued tax exemption under some other tax incentive program, or the exemption results in a payment to the Affected Tax Jurisdictions in excess of the payment described in Section I hereof, or this PILOT Agreement terminates and the property is not timely transferred back to the Company, the Company agrees to pay no later than the next tax lien date (plus any applicable grace period), to each of the Affected Tax Jurisdictions, an amount equal to the taxes and assessments which would have been levied on the Facility if the Facility had been classified as fully taxable as of the

date of transfer or loss of eligibility of all or a portion of the exemption described herein or the date of termination.

Section IX. Assignment.

No portion of any interest in this PILOT Agreement may be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits of the Company hereunder without the prior written consent of the Agency, which consent shall not be unreasonably withheld.

Section X. Miscellaneous.

(a) This PILOT Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

(b) All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follow:

To the Agency: County of Monroe Industrial Development Agency
8100 CityPlace, 50 West Main Street
Rochester, New York 14614
Attn: Executive Director

With a Copy to: Harris Beach PLLC
99 Garnsey Road
Pittsford, New York 14534
Attn: Rachel Baranello Endress, Esq.

To the Company: Riverwood Tech Campus, LLC
205 St. Paul Street, Suite 200
Rochester, New York 14604
Attn: Fred J. Rainaldi, Member

With a copy to: Mangione & Associates, P.C.
205 St. Paul Street
Rochester, New York 14604
Attn: Salvatore A. Mangione, Esq.

or such other address as any party may from time-to-time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

Section XI. No Recourse.

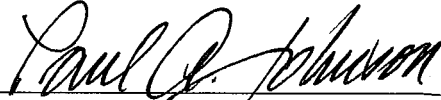
Notwithstanding any other term or condition contained herein, all obligations of the Agency hereunder shall constitute a special obligation payable solely from the revenues and

other monies, if any, derived from the Facility and paid to the Agency by the Company. No member of the Agency nor any person executing this PILOT Agreement on its behalf shall be liable personally under this PILOT Agreement. No recourse shall be had for the payment of the principal or interest on amounts due hereunder or for any claim based upon or in respect of any modification of, or supplement to, against any past, present or future member, officer, agent, servant, or employee, as such, of the Agency, or of any successor or political subdivision, either directly or through the Agency or any such successor, all such liability of such member, officer, agent, servant and employee being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this PILOT Agreement.

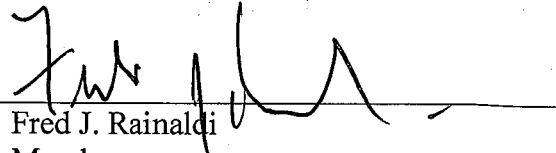
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IN WITNESS WHEREOF, the parties hereto have executed this PILOT Agreement as of the day and year first above written.

**COUNTY OF MONROE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Name: Paul A. Johnson
Title: Acting Executive Director

RIVERWOOD TECH CAMPUS, LLC

By: 
Name: Fred J. Rainaldi
Title: Member

