

## **275 Oak Drive LLC/Nestle Waters North America Inc., PILOT Deviation Resolution**

A regular meeting of the Nassau County Industrial Development Agency (the "Agency") was convened in public session at the Theodore Roosevelt Executive & Legislative Building, Ceremonial Chambers, 1550 Franklin Avenue, Mineola, Nassau County, New York on May 16, 2019 at 6:30 p.m., local time.

The meeting was called to order by the Chairman, upon roll being called, the following members of the Agency were:

### **PRESENT:**

Richard Kessel	Chairman
Lewis M. Warren	Vice Chairman
Anthony Simon	2nd Vice Chairman
Amy Flores	Treasurer
Chris Fusco	Asst. Secretary

### **NOT PRESENT:**

Timothy Williams	Secretary
John Coumatos	Asst. Treasurer

### **THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:**

Harry Coghlan	Chief Executive Officer/Executive Director
Danielle Oglesby	Chief Operating Officer/Deputy Executive Director
Joseph Foarile	Chief Financial Officer
Colleen Pereira	Administrative Director
Thomas D. Glascock	Agency Counsel
Andrew Komaromi	Bond/Transaction Counsel

The attached resolution no. 2019-44 was offered by Anthony Simon, seconded by Richard Kessel::

Resolution No. 2019-44

RESOLUTION AUTHORIZING A DEVIATION FROM THE UNIFORM  
TAX EXEMPTION POLICY OF THE NASSAU COUNTY  
INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT  
TO A PROJECT FOR 275 OAK DRIVE LLC/NESTLE WATERS NORTH  
AMERICA INC.

WHEREAS, the Nassau County Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”), and Chapter 674 of the 1975 Laws of New York, as amended, constituting Section 922 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, industrial and commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more “projects” (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, on or about October 6, 2008, the 275 Oak Drive LLC (the “Company”) and Nestle Waters North America Inc. (the “Sublessee”) (the Company and the Sublessee, collectively, the “Applicants”) presented an application for financial assistance (as amended on October 14, 2008, the “Original Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Original Project”) consisting, inter alia, of the following: (A) (1) acquisition of an interest in an approximately 3.56 acre parcel of land located at 275-280 Oak Drive, Syosset, New York (the “Land”), (2) renovations to an approximately 54,416 square foot existing building, together with related improvements, on the Land (collectively, the “Building”) and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the “Original Equipment”), all of the foregoing for use by the Applicants as a zone sales headquarters and as a sales office for its home and office distribution business and as a distribution center (collectively, the “Original Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes and real property taxes (but not including special assessments and ad valorem levies) (the “Original Financial Assistance”); (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company, the Sublessee, or such other entity as may be designated by the Applicants and agreed upon by the Agency; and (D) the sublease of the Project Facility by the Sublessee, the Company or such other entity as may be designated by the Applicants and agreed upon by the Agency; and

WHEREAS, the Applicants presented an application for additional financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a

project (the "Project") consisting, inter alia, of the following: (A) (1) retention of an interest in the Land), (2) renovations to the Building and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the "Equipment"), all of the foregoing for use by the Applicants as a zone sales headquarters and as a sales office for its home and office distribution business and as a distribution center (collectively, the "Project Facility"); (B) the granting of certain additional "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes and real property taxes (but not including special assessments and ad valorem levies) (the "Financial Assistance"); (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company, the Sublessee, or such other entity as may be designated by the Applicants and agreed upon by the Agency; and (D) the sublease of the Project Facility by the Sublessee, the Company or such other entity as may be designated by the Applicants and agreed upon by the Agency; and

WHEREAS, the Application states that the Applicant is seeking an additional exemption from real property taxes with respect to the Project Facility that constitutes a deviation from the Agency's Uniform Tax Exemption Policy (the "Tax Exemption Policy"); and

WHEREAS, pursuant to Section 874(4) of the Act, (A) the Chief Executive Officer / Executive Director of the Agency caused a letter dated April 29, 2019 (the "Pilot Deviation Notice Letter") to be mailed to the chief executive officer of each affected tax jurisdiction, informing said individuals that the Agency would, at its meeting on May 16, 2019 (the "IDA Meeting"), consider a proposed deviation from the Tax Exemption Policy with respect to the payments in lieu of real property taxes to be made pursuant to a payment in lieu of taxes agreement to be entered into by the Agency with respect to the Project Facility; and (B) the members of the Agency conducted the IDA Meeting on the date hereof and reviewed any comments and correspondence received with respect to the proposed deviation from the Tax Exemption Policy; and

WHEREAS, the Agency desires to provide for compliance with the provisions of Section 874(4) of the Act with respect to the proposed deviation from the Tax Exemption Policy;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. Prior to making the determinations set forth in this resolution, the members of the Agency have considered the following factors set forth in the Tax Exemption Policy: (1) the extent to which the Project would create or retain permanent jobs; (2) the extent to which the Project would create construction jobs; (3) the estimated value of tax exemptions to be provided with respect to the Project; (4) the amount of private sector investment generated or likely to be generated by the Project; (5) the likelihood of the Project being accomplished in a timely manner; (6) the extent of new revenue that would be provided to affected tax jurisdictions as a result of the Project; (7) whether affected tax jurisdictions would be reimbursed by the Applicant if a Project does not fulfill the purposes for which an exemption was provided, (8) the impact of the Project on existing and proposed businesses and economic development projects in the vicinity, (9) the demonstrated public support for the Project, (10) the effect of the Project on the environment, (11) the extent to which the Project would require the provision of additional services, including, but not limited to, additional educational, transportation, police, emergency, medical or fire services, and (12) any other miscellaneous public benefits that might result from the Project.

Section 2. The Agency hereby determines that the Agency has fully complied with the requirements of Section 874(4) of the Act relating to the proposed deviation from the Tax Exemption Policy.

Section 3. Having reviewed all comments and correspondence received at or prior to the IDA Meeting, the Agency hereby approves the proposed deviation from the Tax Exemption Policy as described in the Pilot Deviation Notice Letter (a copy of which is attached hereto as Exhibit A) because the proposed deviation is necessary to induce the Applicant to undertake the Project and because the PILOT payments would not be lower than the real property taxes that should otherwise apply with respect to the Land and the existing improvements thereon as of the closing date of the transaction.

Section 4. The Chairman, Vice Chairman, Chief Executive Officer/Executive Director, Chief Operating Officer and Administrative Director of the Agency are each hereby authorized and directed, acting individually or jointly, to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution. If the Agency hereafter adopts appropriate final approving resolutions with respect to the proposed straight-lease transaction with the Applicant (the "Transaction"), the Chairman, Vice Chairman, Chief Executive Officer/Executive Director, Chief Operating Officer and Administrative Director of the Agency are each hereby authorized and directed, acting individually or jointly, to cause the Agency to (A) enter into a Payment in Lieu of Taxes Agreement with the Applicant, providing, among other things, that the Applicant shall make payments in lieu of taxes consistent with the formula set forth in the PILOT Deviation Notice Letter, and (B) file an application for real property tax exemption with the appropriate assessor(s) with respect to the Project Facility.

Section 5. This Resolution shall take effect immediately, but is subject to and conditioned upon the closing of the Transaction.

ADOPTED: May 16, 2019

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Richard Kessel	VOTING Aye
Lewis M. Warren	VOTING Aye
Anthony Simon	VOTING Aye
Timothy Williams	NOT PRESENT
Chris Fusco	VOTING Aye
Amy Flores	VOTING Aye
John Coumatos	NOT PRESENT

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK

) SS.:

COUNTY OF NASSAU


We, the undersigned [Vice] Chairman and [Assistant] Secretary of the Nassau County Industrial Development Agency (the "Agency"), do hereby certify that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 16, 2019 with the original thereof on file in our office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

WE FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, we have hereunto set our respective hands and affixed the seal of the Agency this 16th day of May, 2019.

  
[Assistant] Secretary

  
[Vice] Chairman

(SEAL)

**EXHIBIT A**

**DEVIATION NOTICE**

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NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

1 WEST STREET

4TH FLOOR

MINEOLA, NY 11501

TELEPHONE (516) 571-1945 FAX (516) 571-1076

[www.nassauida.org](http://www.nassauida.org)

April 29, 2019

CERTIFIED MAIL, RETURN  
RECEIPT REQUESTED and  
FIRST CLASS MAIL

County Executive Laura Curran  
County of Nassau  
1550 Franklin Avenue  
Mineola, NY 11501

Supervisor Joseph Saladino  
Town of Oyster Bay  
54 Audrey Avenue  
Oyster Bay, NY 11771

Superintendent Dr. Thomas Rogers  
Syosset Central School District  
99 Pell Lane  
Syosset NY 11791-9029

NOTICE OF PROPOSED DEVIATION FROM  
UNIFORM TAX EXEMPTION POLICY

Ladies and Gentlemen:

Notice is hereby given that at a meeting of the Nassau County Industrial Development Agency (the "Agency") to be held on May 16, 2019 at 6:30 p.m. local time at the Nassau County Executive & Legislative Building, Ceremonial Chambers, 1550 Franklin Avenue, Mineola, New York, the Agency will consider whether to approve the application of the Applicants (as defined below), for certain "financial assistance" which, if granted, would deviate from the Agency's Uniform Tax Exemption Policy (the "Policy") with respect to the payment of real property taxes. The meeting of the Agency will be open to the public.

In 2008, 275 OAK DRIVE LLC (the "Company"), a limited liability company organized and existing under the laws of the State of New York, and Nestle Waters North America Inc. (the "Sublessee"), a Corporation organized and existing under the laws of the State of Delaware, (the

Company and the Sublessee, collectively, the "Applicants"), presented an application for financial assistance (the "2008 Application") to the Agency, which Application requests that the Agency consider undertaking a project (the "2008 Project") consisting of the following: (A) (1) acquisition of an interest in an approximately 3.56 acre parcel of land located at 275-280 Oak Drive, Syosset, New York (Section: 15; Block: G; Lot: 211), (2) renovations to an approximately 54,416 square foot existing building, together with related improvements, on the Land (collectively, the "Building") and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the "2008 Equipment"), all of the foregoing for use by the Applicants as a zone sales headquarters and as a sales office for its home and office distribution business and as a distribution center (collectively, the "2008 Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes and real property taxes (but not including special assessments and ad valorem levies) (the "2012 Financial Assistance"); (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company, the Sublessee, or such other entity as may be designated by the Applicants and agreed upon by the Agency; and (D) the sublease of the Project Facility by the Sublessee, the Company or such other entity as may be designated by the Applicants and agreed upon by the Agency.

The above referenced 2008 Project Facility was initially and is currently owned, operated and/or managed by the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency. The Applicant received the 2008 Financial Assistance with respect to the 2008 Project Facility from the Agency. The Agency and the Company are party to a Payment in Lieu of taxes Agreement, dated as of December 1, 2008, by and between the Agency and the Company ("PILOT Agreement").

The Applicants presented an application for additional financial assistance (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Project") consisting, inter alia, of the following: (A) (1) retention of an interest in the Land), (2) renovations to the Building and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the "Equipment"), all of the foregoing for use by the Applicants as a zone sales headquarters and as a sales office for its home and office distribution business and as a distribution center (collectively, the "2019 Project Facility" and collectively with the 2008 Project Facility, the "Project Facility"); (B) the granting of certain additional "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes and real property taxes (but not including special assessments and ad valorem levies) (the "Financial Assistance"); (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company, the Sublessee, or such other entity as may be designated by the Applicants and agreed upon by the Agency; and (D) the sublease of the Project Facility by the Sublessee, the Company or such other entity as may be designated by the Applicants and agreed upon by the Agency.

The Application states that the Applicants are seeking an abatement of real property taxes. However, based upon preliminary negotiations between representatives of the Applicants and the Agency, the parties contemplate that the Agency may agree to grant a real property tax exemption (the "Property Tax Exemption") consisting of an additional approximately ten (10) year real property tax exemption with respect to the Project Facility as follows: payments for the first fiscal tax year



following the tenth (10<sup>th</sup>) fiscal tax year when PILOT Payments are payable currently under the PILOT Agreement (i.e. Year 11 of the term of the to be amended PILOT Agreement), shall be equal to \$154,558, followed by a period of nine (9) fiscal tax years with annual increases of 2.00% per year (compounded) each fiscal tax year (i.e. Years 12-20 of the term of the to be amended PILOT Agreement) (collectively the "PILOT Term").

Thereafter, and through the end of the term of the project agreement, lease or installment sale agreement with respect to the Project Facility, the payments would be equal to the real property taxes and assessments that would be payable as if the Project Facility were returned to the tax rolls as taxable property and subject to taxation at its then current, full assessed value, as the same may be reassessed from time to time, and subject to tax rate increases imposed by the affected tax jurisdictions.

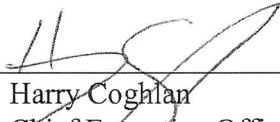
The Property Tax Exemption, if approved by the Agency, would constitute a deviation from the Policy.

The reason for the deviation is that the Property Tax Exemption, if approved by the Agency, is necessary to induce the Applicants to undertake the Project and that the PILOT payments would not be lower than the highest PILOT Payment under the current PILOT Agreement.

Sincerely,

NASSAU COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_

  
Harry Coghlan  
Chief Executive Officer