

Designatronics Amended Tax Deviation Resolution

A regular meeting of the Nassau County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency at 1550 Franklin Avenue, Mineola, County of Nassau, New York, on September 27, 2016, at 5:00 p.m., local time.

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

PRESENT:

John Coumatos	Vice Chairman
Gary Weiss	Secretary
Christopher Fusco	Asst. Secretary

NOT PRESENT:

Timothy Williams	Chairman
Michael Rodin	

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Joseph J. Kearney	Executive Director
Joseph Foarile	Chief Financial Officer
Colleen Pereira	Administrative Director
Nicholas Terzulli	Director of Business Development
Edward Ambrosino, Esq.	General Counsel
Paul O'Brien, Esq.	Bond/Transaction Counsel

The attached resolution no. 2016-54 was offered by C. Fusco, seconded by J. Coumatos:

Resolution No. 2016-54

RESOLUTION AUTHORIZING A DEVIATION FROM THE UNIFORM
TAX EXEMPTION POLICY OF THE NASSAU COUNTY
INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT
TO AN AMENDED PROJECT FOR DESIGNATRONICS INCORPORATED

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 I 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, DESIGNATRONICS INCORPORATED, a corporation organized and existing under the laws of the State of New York (the "Applicant"), presented an application (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Project") consisting of the following: (A)(1) the acquisition of an interest in a parcel of land located at 250 Duffy Avenue, Hicksville, Town of Oyster Bay, Nassau County, New York (Section: 11; Block: G; Lot: 174) (the "Land"), (2) the renovation of the existing approximately 100,000 square foot building (collectively, the "Building") on the Land, together with related improvements to the Land, 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 Applicant as a design, manufacturing and distribution facility in connection with its mechanical and electro-mechanical motion control business (collectively, the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes; and (C) the lease (with an obligation to

purchase), license or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the Agency appointed the Applicant as agent of the Agency to undertake the acquisition, renovation, installation and equipping of the Project Facility and subleased the Project Facility to the Applicant, and the Applicant agreed to act as agent of the Agency to undertake the acquisition, renovation, installation and equipping of the Project Facility and subleased the Project Facility from the Agency, all pursuant to the terms and conditions set forth in that certain Sublease Agreement dated as of December 1, 2013 (as amended to date, the "Original Lease") and in the other Transaction Documents (as defined in the Original Lease); and

WHEREAS, pursuant to a certain Payment in Lieu of Taxes Agreement, dated as of December 1, 2013, between the Applicant and the Agency (as amended, modified, supplemented and restated, collectively, the "Existing PILOT Agreement"), the Applicant agreed to make certain payments in lieu of real property taxes with respect to the Land and the improvements thereon, and such obligation is secured by a certain Mortgage and Assignment of Leases and Rents, dated as of December 1, 2013 (as amended, modified, supplemented and restated, the "PILOT Mortgage"), made by the Applicant and the Agency, as mortgagors, in favor of the County of Nassau, as mortgagee (in such capacity, the "PILOT Mortgagee"), pursuant to which the Agency and the Applicant granted a first mortgage on the Land and the improvements thereon to the PILOT Mortgagee; and

WHEREAS, the Applicant has requested that the Agency consent to the amendment of the Transaction Documents (collectively, the "Amended Project") to (i) increase the payments of the Applicant to the Agency under the Existing PILOT Agreement, (ii) amend the Minimum Employment Requirement (as defined in the Original Lease), and (iii) grant certain additional "financial assistance" in connection with the foregoing, including potential additional exemptions or partial exemptions from sales and use taxes and mortgage recording taxes (collectively, the "Additional Financial Assistance"), all pursuant to a request for consent dated August 3, 2016 (the "Consent Request"); and

WHEREAS, the granting of the Additional Financial Assistance would represent a deviation from the Agency's Uniform Tax Exemption Policy (the "Tax Exemption Policy") with respect to the making of payments in lieu of real property taxes; and

WHEREAS, pursuant to Section 874(4) of the Act, (A) the Executive Director of the Agency caused a letter dated September 12, 2016 (collectively, 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 September 27, 2016 (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 an amended and restated 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 written

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 factors set forth in the Tax Exemption Policy.

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 by the Agency, the Agency hereby approves the proposed deviation from the Tax Exemption Policy as described in the Pilot Deviation Notice Letter (copies of which are attached hereto as Exhibit A) because such deviation (i) is necessary to induce the Applicant to undertake the Amended Project, and (ii) the PILOT Payments for Years 2 through 15 of the term of the amended property tax exemption are greater than the payments that would otherwise apply with respect to the Facility for those years under the Existing PILOT Agreement.

Section 4. The Chairman, Vice Chairman, Executive Director 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 amendment and restatement of the Existing PILOT Agreement (the "Transaction"), the Chairman, Vice Chairman, Executive Director and Administrative Director of the Agency are each hereby authorized and directed, acting individually or jointly, to cause the Agency to (A) enter into an Amended and Restated Payment in Lieu of Taxes Agreement with the Applicant providing, among other things, that the Applicant shall make amended payments in lieu of taxes consistent with the formula set forth in the Pilot Deviation Notice Letter, and (B) file an amended 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: September 27, 2016

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

Timothy Williams	VOTING
John Coumatos	VOTING
Gary Weiss	VOTING
Christopher Fusco	VOTING
Michael Rodin	VOTING

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 September 27, 2016 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 27th day of September, 2016.



~~[Assistant]~~ Secretary



[Vice] Chairman

(SEAL)

EXHIBIT A

Pilot Deviation Notice Letter

See Attached

EDWARD P. MANGANO
COUNTY EXECUTIVE



JOSEPH J. KEARNEY
EXECUTIVE DIRECTOR

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY
THEODORE ROOSEVELT COUNTY EXECUTIVE & LEGISLATIVE BLDG.
1550 FRANKLIN AVENUE, SUITE 235
MINEOLA, NY 11501
TELEPHONE (516) 571-1945 FAX (516) 571-1076
www.nassauida.org

September 12, 2016

CERTIFIED MAIL, RETURN
RECEIPT REQUESTED and
FIRST CLASS MAIL

County Executive Edward Mangano
County of Nassau
1550 Franklin Avenue
Mineola, NY 11501

NOTICE OF PROPOSED DEVIATION FROM UNIFORM
TAX EXEMPTION POLICY AND GUIDELINES

Dear County Executive Edward Mangano:

Notice is hereby given that at a meeting of the Nassau County Industrial Development Agency (the "Agency") to be held on September 27, 2016 at 5:00 p.m. at the offices of the Agency at 1550 Franklin Avenue, Suite 235, Mineola, New York 11501, the Agency will consider whether to approve an application from DESIGNATRONICS INCORPORATED, a corporation organized and existing under the laws of the State of New York (the "Applicant"), for certain "financial assistance" which, if granted, would represent a deviation from the Agency's Uniform Tax Exemption Policy and Guidelines (the "Policy") with respect to the payment of real property taxes. The meeting of the Agency will be open to the public.

The Applicant and the Agency are parties to a Payment in Lieu of Taxes Agreement dated as of December 1, 2013 (as amended, modified, supplemented or restated to date, the "Existing PILOT Agreement") pursuant to which the Agency granted an exemption from real property taxes to the Applicant with respect to the existing facility, and the improvements thereon, located on certain land commonly known as 250 Duffy Avenue, Hicksville, Town of Oyster Bay, Nassau County, New York (Section: 11; Block: G; Lot: 174) (the "Facility").

The Applicant has requested that the Agency provide additional financial assistance for the Applicant in connection with (a) the continued renovation of and certain additional changes to the Facility including the reduction of the square footage thereof by approximately 5,000

square feet, and (b) the acquisition of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (collectively, the "Project"), including, without limitation, an amended exemption from real property taxes with respect to the Facility to increase the payments under the Existing PILOT Agreement.

Based upon preliminary negotiations between representatives of the Applicant and the Agency, the parties contemplate that the Agency may agree to grant an amended real property tax exemption (the "Amended Property Tax Exemption") with respect to the Facility, commencing in Year 2 of the term of the Existing PILOT Agreement, such that the Applicant would pay the PILOT Payments set forth under the column "Amended PILOT Payments" in Exhibit A attached hereto. For purposes of illustration, the PILOT Payments for the corresponding years under the Existing PILOT Agreement are set forth under the column "Existing PILOT Payments" in Exhibit A attached hereto. PILOT Payments for Year 1 of the term of the Existing PILOT Agreement would be unaffected by the Amended Property Tax Exemption.

After the expiration of the term of the Amended Property Tax Exemption, and through the end of the period in which the Agency has an interest in the Facility, the payments would be equal to the real property taxes that would be payable as if the Facility were returned to the tax rolls as taxable real 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 Amended Property Tax Exemption, if approved by the Agency, would constitute a deviation from the Policy.

The reasons for the proposed deviation from the Policy are that the Amended Property Tax Exemption, if approved by the Agency, (i) is necessary to induce the Applicant to undertake the Project, and (ii) the PILOT Payments for Years 2 through 15 of the term of the Amended Property Tax Exemption are greater than the payments that would otherwise apply with respect to the Facility for those years under the Existing PILOT Agreement.

Sincerely,

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: 
Joseph J. Kearney
Executive Director

EXHIBIT A

Amended Property Tax Exemption

<u>PILOT Yr.</u>	<u>Existing PILOT Payments</u>	<u>Amended PILOT Payments</u>
2	\$303,694	\$326,419
3	\$303,694	\$326,419
4	\$303,694	\$326,419
5	\$303,694	\$326,419
6	\$303,694	\$326,419
7	\$303,694	\$326,419
8	\$303,694	\$326,419
9	\$303,694	\$326,419
10	\$303,694	\$326,419
11	\$303,694	\$326,419
12	\$303,694	\$326,419
13	\$303,694	\$326,419
14	\$303,694	\$326,419
15	\$303,694	\$326,419