

## **LIF Industries 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, Nassau County, New York, on June 28, 2016, at 5:00 p.m. local time.

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

### **PRESENT:**

Timothy Williams	Chairman
John Coumatos	Vice Chairman
Christopher Fusco	Asst. Secretary

### **ABSENT:**

Gary Weiss	Secretary
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
Paul O'Brien, Esq.	Bond/Transaction Counsel

The attached resolution no. 2016-36 was offered by J. Coumatos, seconded by C. Fusco:

Resolution No. 2016-36

RESOLUTION AUTHORIZING A DEVIATION FROM THE UNIFORM  
TAX EXEMPTION POLICY OF THE NASSAU COUNTY  
INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT  
TO A PROJECT FOR LIF INDUSTRIES, INC. AND ITS AFFILIATES

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, LIF INDUSTRIES, INC., a corporation organized and existing under the laws of the State of New York (the "Applicant"), submitted an application for financial assistance (the "Application") to the Agency requesting that the Agency consider undertaking a project (the "Project") consisting of the following: (A)(1) the acquisition of an interest in an approximately 7.66 acre parcel of land located at 5 Harbor Park Drive, Port Washington, Town of North Hempstead, Nassau County, New York (Section: 6; Block: 86; Lots: 4, 5, 6A and 6B) (the "5 Harbor Parcel"), (2) the renovation of the existing building (collectively, the "5 Harbor Building") on the 5 Harbor Parcel, together with related improvements to the 5 Harbor Parcel, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the "5 Harbor Equipment") necessary for the completion thereof (collectively, the "5 Harbor Project Facility"); (B)(1) the acquisition of an interest in an approximately 2.92 acre parcel of land located at 10 Harbor Park Drive, Port Washington, Town of North Hempstead, Nassau County, New York (Section: 6; Block: 58; Lot: 102) (the "10 Harbor Parcel"), (2) the renovation of the existing building (collectively, the "10 Harbor Building") on the 10 Harbor Parcel, together with related improvements to the 10 Harbor Parcel, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the "10 Harbor Equipment")

necessary for the completion thereof (collectively, the "10 Harbor Project Facility"); (C)(1) the acquisition of an interest in an approximately 3.03 acre parcel of land located at 18 Industrial Park Drive, Port Washington, Town of North Hempstead, Nassau County, New York (Section: 6; Block: 86; Lot: 9) (the "18 Industrial Parcel" and together with the 5 Harbor Parcel and the 10 Harbor Parcel, collectively, the "Land"), (2) the renovation of the existing building (collectively, the "18 Industrial Building" and together with the 5 Harbor Building and the 10 Harbor Building, collectively, the "Building") on the 18 Industrial Parcel, together with related improvements to the 18 Industrial Parcel, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the "18 Industrial Equipment" and together with the 5 Harbor Equipment and the 10 Harbor Equipment, collectively, the "Equipment") necessary for the completion thereof (collectively, the "18 Industrial Project Facility" and together with the 5 Harbor Project Facility and the 10 Harbor Project Facility, collectively, the "Project Facility"), all of the foregoing for use by the Applicant and/or its affiliates as their office, manufacturing, warehousing and distribution facility; (D) 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 (collectively, the "Financial Assistance"); (E) 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 (F) the sublease thereof to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the Application states that the Applicant is seeking an 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 Executive Director of the Agency caused a letter dated June 7, 2016 (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 June 28, 2016 (the "IDA Meeting"), consider a proposed deviation from the Tax Exemption Policy with respect to 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 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 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 in Nassau County and because the base year PILOT amounts would not be lower than the real property taxes that should otherwise apply with respect to the Project Facility as of the closing date of the proposed transaction as if the Agency did not have an interest in the Project Facility.

Section 4. The Chairman, Vice Chairman, Administrative Director and Executive 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, 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 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.

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	Aye
John Coumatos	VOTING	Aye
Gary Weiss	EXCUSED	
Christopher Fusco	VOTING	Aye
Michael Rodin	EXCUSSED	

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK                    )  
  ) SS.:  
COUNTY OF NASSAU                    )

We, the undersigned [Assistant] Secretary and ~~Vice~~ Chairman 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 June 28, 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 28th day of June, 2016.

  
\_\_\_\_\_  
[Vice] Chairman

  
\_\_\_\_\_  
[Assistant] Secretary

(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

June 7, 2016

**CERTIFIED MAIL, RETURN  
RECEIPT REQUESTED and  
FIRST CLASS MAIL**

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

**NOTICE OF PROPOSED DEVIATION FROM  
UNIFORM TAX EXEMPTION POLICY**

Dear County Executive Edward P. Mangano:

Notice is hereby given that at a meeting of the Nassau County Industrial Development Agency (the "Agency") to be held on June 28, 2016 at 5:00 p.m. local time, at the offices of the Agency at 1550 Franklin Avenue, Suite 235, Mineola, New York 11501, the Agency will consider whether to approve the application of the LIF INDUSTRIES, INC., a corporation organized and existing under the laws of the State of New York (the "Applicant"), 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.

The Applicant presented an application for financial assistance (the "Application") to the Agency, requesting that the Agency consider undertaking a project (the "Project") consisting of the following: (A)(1) the acquisition of an interest in an approximately 7.66 acre parcel of land located at 5 Harbor Park Drive, Port Washington, Town of North Hempstead, Nassau County, New York (Section: 6; Block: 86; Lots: 4, 5, 6A and 6B) (the "5 Harbor Parcel"), (2) the renovation of the existing building (collectively, the "5 Harbor Building") on the 5 Harbor Parcel, together with related improvements to the 5 Harbor Parcel, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the "5 Harbor Equipment") necessary for the completion thereof (collectively, the "5 Harbor Project Facility"); (B)(1) the acquisition of an interest in an approximately 2.92 acre parcel of land located at 10 Harbor Park Drive, Port Washington, Town of North Hempstead, Nassau County, New York (Section: 6; Block: 58; Lot: 102) (the "10 Harbor Parcel"), (2) the renovation of the existing building

(collectively, the "10 Harbor Building") on the 10 Harbor Parcel, together with related improvements to the 10 Harbor Parcel, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the "10 Harbor Equipment") necessary for the completion thereof (collectively, the "10 Harbor Project Facility"); (C)(1) the acquisition of an interest in an approximately 3.03 acre parcel of land located at 18 Industrial Park Drive, Port Washington, Town of North Hempstead, Nassau County, New York (Section: 6; Block: 86; Lot: 9) (the "18 Industrial Parcel" and together with the 5 Harbor Parcel and the 10 Harbor Parcel, collectively, the "Land"), (2) the renovation of the existing building (collectively, the "18 Industrial Building" and together with the 5 Harbor Building and the 10 Harbor Building, collectively, the "Building") on the 18 Industrial Parcel, together with related improvements to the 18 Industrial Parcel, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the "18 Industrial Equipment" and together with the 5 Harbor Equipment and the 10 Harbor Equipment, collectively, the "Equipment") necessary for the completion thereof (collectively, the "18 Industrial Project Facility" and together with the 5 Harbor Project Facility and the 10 Harbor Project Facility, collectively, the "Project Facility"), all of the foregoing for use by the Applicant and/or its affiliates as their office, manufacturing, warehousing and distribution facility; (D) 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 (collectively, the "Financial Assistance"); (E) 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 (F) the sublease thereof to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency.

The Application states that the Applicant is seeking an abatement of real property taxes. However, based upon preliminary negotiations between representatives of the Applicant and the Agency, the parties contemplate that the Agency may agree to grant a real property tax exemption (the "Property Tax Exemption") with respect to the Project Facility as follows:

(i) With respect to the 10 Harbor Project Facility, payments shall be equal to one hundred percent (100%) of the real property taxes and assessments that should be levied upon the 10 Harbor Project Facility as of the closing date of the Project transaction without taking into consideration the transfer of ownership, jurisdiction, supervision or control of the 10 Harbor Project Facility to the Agency, which base year PILOT amount would be payable each fiscal tax year for a period of ten (10) fiscal tax years without increase, followed by a period of five (5) fiscal tax years with annual increases of 0.73% per year (compounded) each fiscal tax year after the tenth (10th) fiscal tax year (i.e., Years 11-15 of the term of the PILOT).

(ii) With respect to the 5 Harbor Project Facility, payments shall be equal to one hundred percent (100%) of the real property taxes and assessments that should be levied upon the 5 Harbor Project Facility as of the closing date of the Project transaction without taking into consideration the transfer of ownership, jurisdiction, supervision or control of the 5 Harbor Project Facility to the Agency, which base year PILOT amount would be payable each fiscal tax year for a period of three (3) fiscal tax years without increase, followed by a period of seven (7) fiscal tax years with annual increases of 0.73% per year (compounded) each fiscal tax year after the third (3rd) fiscal tax year (i.e., Years 4-10 of the term of the PILOT).



(iii) With respect to the 18 Industrial Project Facility, payments shall be equal to one hundred percent (100%) of the real property taxes and assessments that should be levied upon the 18 Industrial Project Facility as of the closing date of the Project transaction without taking into consideration the transfer of ownership, jurisdiction, supervision or control of the 18 Industrial Project Facility to the Agency, which base year PILOT amount would be payable each fiscal tax year for a period of three (3) fiscal tax years without increase, followed by a period of seven (7) fiscal tax years with annual increases of 0.73% per year (compounded) each fiscal tax year after the third (3rd) fiscal tax year (i.e., Years 4-10 of the term of the PILOT).

Thereafter, and through the end of the term of the 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.

In calculating each of the base year PILOT amounts set forth above, the Agency shall take into account the most recent assessment data (i.e., assessed value and tax rates) available as of the closing including, without limitation, any applicable approved tax certiorari stipulation or other settlement or arrangement with the applicable tax assessor(s).


The Project Facility would not be entitled to exempt status on the tax rolls of any affected taxing jurisdiction until the beginning of the first fiscal tax year of such affected taxing jurisdiction following the second taxable status date of such affected taxing jurisdiction occurring subsequent to the last to occur of (i) the Agency becoming the holder of a leasehold interest in the Project Facility, (ii) the filing by the Agency of the appropriate application for tax exemption, and (iii) the acceptance of such application by the appropriate tax assessor(s).

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 Applicant to undertake the Project in Nassau County and that the base year PILOT amounts would not be lower than the real property taxes that should otherwise apply with respect to the Project Facility as of the closing date.

Sincerely,

NASSAU COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Joseph J. Kearney  
Executive Director