

Nassau Steel, LLC 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 December 12, 2018 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
Timothy Williams	Secretary
Amy Flores	Treasurer
John Coumatos	Asst. Treasurer

NOT PRESENT:

Chris Fusco Asst. Secretary

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Joseph J. Kearney	Executive Director
Joseph Foarile	Chief Financial Officer
Colleen Pereira	Administrative Director
Andrew Komaromi.	Bond/Transaction Counsel

The attached resolution no. 2018-74 was offered by John Coumatos, seconded by Lewis M. Warren:

Resolution No. 2018-74

RESOLUTION AUTHORIZING A DEVIATION FROM THE UNIFORM
TAX EXEMPTION POLICY OF THE NASSAU COUNTY
INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT
TO A PROJECT FOR NASSAU STEEL, LLC.

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, NASSAU STEEL, LLC, a limited liability company duly organized and existing under the laws of the State of Delaware and qualified to do business as a foreign limited liability company in 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 or interests in an approximately 85.50 acre parcel of land located at 999 South Oyster Bay Road, Bethpage, Town of Oyster Bay, County of Nassau, New York (Section: 46; Block: G; Lot: 98) (collectively, the “Existing Land”), (2) the repair and restoration of the base building systems and infrastructure of the existing approximately 1,200,000 square foot building complex on the Land (collectively, the “Original Building”), which is limited to repairs of roofing, flooring, electrical and plumbing components and asbestos compliance work, together with related infrastructure improvements to the Existing Land, all to bring the Original Building into compliance with building code regulations; and (3) consistent with item (2) above, the acquisition and installation therein and thereon of certain fixtures, machinery and equipment related to the repair and restoration of the Original Building and related improvements to the Existing Land (the “2011 Equipment” and together with the Existing Land and the Original Building, 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, including exemptions or partial exemptions from real property taxes, sales and use taxes and mortgage recording 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, on or about October 21, 2011, the Applicant entered into a “straight lease” transaction with the Agency under the Act pursuant to, *inter alia*, a certain Sublease Agreement, dated as of October 1, 2011, between the Agency and the Applicant (as amended, modified, supplemented and restated, the “Lease Agreement”); and

WHEREAS, pursuant to a certain Payment in Lieu of Taxes Agreement, dated as of October 1, 2011 (as amended, modified, supplemented and restated, collectively, the “Existing PILOT Agreement”), between the Applicant and the Agency, the Applicant agreed to make certain payments in lieu of real property taxes with respect to the Existing Land and the improvements thereon, and such obligation is secured by a certain Mortgage and Security Agreement, dated as of October 1, 2011 (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 Existing Land and the improvements thereon to the PILOT Mortgagee; and

WHEREAS, pursuant to an application for additional financial assistance dated July 20, 2018 (as amended, the “2018 Application”), the Applicant has requested that the Agency consider undertaking an additional project (the “Proposed Project”) consisting of the following: (A)(1) the acquisition of an interest in a parcel of land known as Section: 46; Block: G; Lot: 99 on the Tax Map of Nassau County, New York (the “New Land” and together with the Existing Land, collectively, the “Land”), (2) the construction of an approximately 244,483 square foot building (the “New Building” on the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “2018 Equipment” and together with the New Land and the New Building, collectively, the “2018 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 (collectively, the “Additional Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the 2018 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 Application states that the Applicant is seeking an exemption from real property taxes with respect to the 2018 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 October 22, 2018, and the matter having been removed from the agenda of the Agency’s November 8, 2018 Board Meeting, a subsequent letter dated November 23, 2018 (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 December 12, 2018 (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 Proposed Project would create or retain permanent jobs; (2) the extent to which the Proposed Project would create construction jobs; (3) the estimated value of tax exemptions to be provided with respect to the Proposed Project; (4) the amount of private sector investment generated or likely to be generated by the Proposed Project; (5) the likelihood of the Proposed 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 Proposed Project; (7) whether affected tax jurisdictions would be reimbursed by the Applicant if a Proposed Project does not fulfill the purposes for which an exemption was provided, (8) the impact of the Proposed Project on existing and proposed businesses and economic development projects in the vicinity, (9) the demonstrated public support for the Proposed Project, (10) the effect of the Proposed Project on the environment, (11) the extent to which the Proposed 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 Proposed 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 Proposed 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, 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 2018 Project Facility.

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

ADOPTED: December 12, 2018

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	VOTING Aye
Chris Fusco	NOT PRESENT
Amy Flores	VOTING Aye
John Coumatos	VOTING Aye

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 December 12, 2018 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 12th day of December, 2018.



[Assistant] Secretary



[Vice] Chairman

(SEAL)