

**Granite 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, Suite 235, Mineola, Nassau County, New York, on September 28, 2012, at 11:30 a.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
Gary Weiss	Secretary

**ABSENT:**

None

**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
Mary Dolan Grippo	Chief Marketing Officer
Edward Ambrosino, Esq.	General Counsel
Paul O'Brien, Esq.	Bond/Transaction Counsel

The attached resolution no. 2012-27 was offered by G. Weiss, seconded by J. Coumatos:

Resolution No. 2012-27

RESOLUTION AUTHORIZING A DEVIATION FROM THE UNIFORM  
TAX EXEMPTION POLICY OF THE NASSAU COUNTY  
INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT  
TO A PROJECT FOR GRANITE BUILDING 2, 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 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, on December 29, 2005, Granite Building 2, LLC, a New York limited liability company (the "Company") entered into a "straight-lease transaction" with the Agency, with respect to a project (the "Project") consisting of the following: (A) (1) the acquisition of an interest in an approximately 3.57 acre parcel of land located at 1991 Marcus Avenue, in Lake Success, Town of North Hempstead, County of Nassau, New York (the "Land"), (2) the construction of an approximately 127,290 square foot commercial office building (the "Building"), together with related improvements on the Land, and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the "Equipment"), all of the foregoing to constitute a commercial office building (collectively, the "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, mortgage recording taxes, and real property taxes (but not including special assessments and ad valorem levies) (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other entity as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, pursuant to letters dated July 6, 2012 and September 13, 2012 from the Company to the Agency (the "Application"), the Company has requested the granting of certain additional "financial assistance" (within the meaning of Section 854(14) of the Act), including potential additional exemptions or partial exemptions from real property taxes (collectively, the "Additional Financial Assistance") in connection with the extension of the term of the Lease Agreement (collectively, the "Project"); and

WHEREAS, 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, the Executive Director of the Agency (A) caused a letter dated September 18, 2012 (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 28, 2012 (the "IDA Meeting"), consider a proposed deviation from the Tax Exemption Policy with respect to the amended and restated payment in lieu of taxes agreement to be entered into by the Agency with respect to the Project Facility; and (B) conducted the IDA Meeting on the date hereof and reviewed any written comments and correspondence received from the affected tax jurisdictions 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. 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 2. Having reviewed all written comments and correspondence received prior to the IDA Meeting from the affected tax jurisdictions and having heard all comments made at this meeting, 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 (i) the deviation is necessary to maintain the economic viability of the Project Facility, (ii) the deviation is consistent with the real property tax exemptions granted by the Agency to other similar projects in Nassau County, and (iii) the PILOT payments 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 Project transaction.

Section 3. 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 Company 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 Project for the Company (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 Third Amended and Restated Payment in Lieu of Taxes Agreement with the Company providing, among other things, that the Company 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 4. This Resolution shall take effect immediately, but is subject to and conditioned upon the closing of the Transaction.

ADOPTED: September 28, 2012

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	VOTING	Aye
Christopher Fusco	VOTING	Aye

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned (Assistant) Secretary of Nassau County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I 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 28, 2012 with the original and of such resolution set forth therein and of the whole of such original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all aspects 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.

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 28<sup>th</sup> day of September, 2012.

  
\_\_\_\_\_  
[Asst.] 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](http://www.nassauida.org)

September 18, 2012

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

Supervisor Jon Kaiman  
Town of North Hempstead  
220 Plandome Road  
Manhasset, NY 11030

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

Dear Supervisor Kaiman:

Notice is hereby given that at a meeting of the Nassau County Industrial Development Agency (the "Agency") to be held on September 28, 2012 at 11:30 a.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 GRANITE BUILDING 2, LLC (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, 2005 (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.

The Applicant has requested that the Agency provide financial assistance for the Applicant in the form of an amended exemption from real property taxes (the "Financial

Assistance”) with respect to the existing facility, and the improvements thereon, constructed by the Applicant on certain land commonly known as 1991 Marcus Avenue, Lake Success, Town of North Hempstead, Nassau County, New York, and designated as Section 8, Block B18, Lot 338 on the Land and Tax Map of Nassau County, New York (the “Facility”).

Based upon preliminary negotiations between representatives of the Applicant and the Agency, the parties contemplate that the Agency may agree to grant an approximately five (5) year amended real property tax exemption (the “Amended Property Tax Exemption”) with respect to the Facility as follows: payments shall be equal to one hundred percent (100%) of the real property taxes and assessments that would be levied upon the Facility as of the closing date of the Project transaction without taking into consideration the transfer of ownership, jurisdiction, supervision or control of the Facility to the Agency (the “PILOT Amount”), which PILOT Amount would be payable each fiscal tax year for a period of five (5) fiscal tax years without further adjustment. The PILOT Amount shall be based on the most recent assessment date available including any applicable approved tax certiorari stipulation.

Thereafter, 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 deviation are that (a) the Amended Property Tax Exemption, if approved by the Agency, (i) is necessary to maintain the economic viability of the Facility and (ii) is consistent with the real property tax exemptions granted by the Agency to other similar projects in Nassau County, and (b) the PILOT payments would not be lower than the real property taxes that should otherwise apply with respect to the Facility as of the closing date of the Project transaction.

Sincerely,

NASSAU COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

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

  
Joseph J. Kearney  
Executive Director