

MCRT Investments 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 September 27, 2016 at 5:00 p.m. local time.

The meeting was called to order by the Vice Chairman, 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. 2016-57 was offered by J. Coumatos, seconded by C.

Fusco:

Resolution No. 2016-57

RESOLUTION AUTHORIZING A DEVIATION FROM THE UNIFORM
TAX EXEMPTION POLICY OF THE NASSAU COUNTY
INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT
TO A PROJECT FOR MCRT INVESTMENTS 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, MCRT INVESTMENTS LLC, a limited liability company 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 in an approximately 38,507 square foot parcel of land located on Searing Avenue, Incorporated Village of Mineola, Town of North Hempstead, County of Nassau, New York (Section: 9; Block: 456; Lot: 195, formerly part of Lot 132) (the "120 Parcel"), (2) the construction of a 4-story building on the 120 Parcel, together with underground parking and other related improvements to the 120 Parcel (the "120 Building"), and (3) the acquisition of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the "120 Equipment"), all of the foregoing to constitute a multi-family residential rental facility consisting of approximately 96 apartment units, at least ten percent (10%) of which units shall be affordable units (collectively, the "120 Project Facility"); (B) (1) the acquisition of an interest in a parcel of land located at 121/127 Searing Avenue, Incorporated Village of Mineola, Town of North Hempstead, County of Nassau, New York (Section: 9; Block: 452; Lots: 4-8) (the

"121/127 Parcel" and together with the 120 Parcel, the "Land"), (2) the construction of a 4-story building on the 121/127 Parcel, together with underground parking and other related improvements to the 121/127 Parcel (the "121/127 Building" and together with the 120 Building, the "Building"), and (3) the acquisition of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the "121/127 Equipment" and together with the 120 Equipment, the "Equipment"), all of the foregoing to constitute a multi-family residential rental facility consisting of approximately 96 apartment units, at least ten percent (10%) of which units shall be affordable units (collectively, the "121/127 Project Facility" and together with the 120 Project Facility, the "Project Facility"); (C) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law, as amended) 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"); and (D) the lease (with an obligation to purchase), license or sale of the Project Facility 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 September 12, 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 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 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 and because the PILOT payments would not be lower than the real property taxes that otherwise apply with respect to the Land and the existing improvements thereon immediately prior to the closing of the proposed 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 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 | EXCUSED | |
| John Coumatos | VOTING | Aye |
| Gary Weiss | VOTING | Aye |
| Christopher Fusco | VOTING | Aye |
| Michael Rodin | EXCUSED | |

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) 571-1075
www.nassauida.org

September 12, 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 September 27, 2016 at 5:00 p.m. local time at the offices of the Agency at 1550 Franklin Avenue, Suite 235, Mineola, New York, the Agency will consider whether to approve the application of MCRT INVESTMENTS LLC, a limited liability company 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") 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 has 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 38,507 square foot parcel of land located on Searing Avenue, Incorporated Village of Mineola, Town of North Hempstead, County of Nassau, New York (Section: 9; Block: 456; Lot: 195, formerly part of Lot 132) (the "120 Parcel"), (2) the construction of a 4-story building on the 120 Parcel, together with underground parking and other related improvements to the 120 Parcel (the "120 Building"), and (3) the acquisition of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the "120 Equipment"), all of the foregoing to constitute a multi-family residential rental facility consisting of approximately 96 apartment units, at least ten percent (10%) of which units shall be affordable units (collectively, the "120 Project Facility"); (B) (1) the acquisition of an interest in a parcel of land located at 121/127 Searing Avenue, Incorporated Village of Mineola, Town of North Hempstead, County of Nassau, New York (Section: 9; Block: 452; Lots: 4-8) (the "121/127 Parcel" and together with the 120 Parcel, the "Land"), (2) the construction of a 4-story building on the 121/127 Parcel, together with

underground parking and other related improvements to the 121/127 Parcel (the "121/127 Building" and together with the 120 Building, the "Building"), and (3) the acquisition of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the "121/127 Equipment" and together with the 120 Equipment, the "Equipment"), all of the foregoing to constitute a multi-family residential rental facility consisting of approximately 96 apartment units, at least ten percent (10%) of which units shall be affordable units (collectively, the "121/127 Project Facility" and together with the 120 Project Facility, the "Project Facility"); (C) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law, as amended) 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 (D) the lease (with an obligation to purchase), license or sale of the Project Facility 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 an approximately twenty (20) year real property tax exemption (the "Property Tax Exemption") with respect to the Project Facility with payments not less than the following amounts for the following years of the term of the Property Tax Exemption:

| <u>Year</u> | <u>PILOT Payment*</u> |
|-------------|-----------------------|
| 1 | \$104,418 |
| 2 | \$107,550 |
| 3 | \$110,776 |
| 4 | \$484,800 |
| 5 | \$499,344 |
| 6 | \$514,324 |
| 7 | \$529,754 |
| 8 | \$545,647 |
| 9 | \$562,016 |
| 10 | \$578,877 |
| 11 | \$596,243 |
| 12 | \$614,130 |
| 13 | \$632,554 |
| 14 | \$651,531 |
| 15 | \$671,077 |
| 16 | \$691,209 |
| 17 | \$711,945 |
| 18 | \$733,303 |
| 19 | \$755,303 |
| 20 | \$777,962 |

* Notwithstanding the amounts set forth in the chart above, the actual PILOT payment for each PILOT Year shall not be less than the greater of: (i) the amount set forth in the chart above for such PILOT Year, or (ii) the actual amount of real property taxes that should otherwise apply with respect to

the Land and the existing improvements thereon immediately prior to the closing of the proposed transaction.

Notwithstanding the amounts set forth in the chart above, if the subject transaction closes on or after January 1, 2017, the PILOT Payment for PILOT Year 1 will be subject to adjustment based on any change(s) in the real property taxes applicable with respect to the Land and the existing improvements thereon immediately prior to the closing of the proposed transaction and treating any negative change as \$0. All subsequent PILOT Years shall be adjusted proportionately to reflect such increase(s) in PILOT Year 1.

For purposes of the foregoing schedule, PILOT Year 1 shall mean the first fiscal tax year of each of the affected tax jurisdictions following the first taxable status following the closing of the proposed transaction and filing of the appropriate application(s) for exemption. The portion of each annual PILOT Payment shall be allocated among the affected tax jurisdictions in proportion to the amount of real property taxes that would have been received by each affected tax jurisdiction had the Project Facility not been tax exempt due to the status of the Agency.

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.

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 and that the PILOT payments would not be lower than the real property taxes that would otherwise apply with respect to the Land and the existing improvements thereon immediately prior to the closing of the proposed transaction.

Sincerely,

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: 
Joseph J. Kearney
Executive Director