

GRIFFISS LOCAL DEVELOPMENT CORPORATION

and

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

Oneida County Industrial Development Agency
2014 Real Estate Transfer

GRIFFISS LOCAL DEVELOPMENT CORPORATION/BUILDING 240 FACILITY

County of Oneida

and

City of Rome

and

Rome City School District

Tax Account Number: Part of 243.000-1-1.1

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

THIS AGREEMENT, dated as of July 1, 2014, is by and between **GRIFFISS LOCAL DEVELOPMENT CORPORATION**, a not-for-profit local development corporation duly organized and validly existing under the laws of the State of New York, having its principal office at 584 Phoenix Drive, Rome, New York 13441 (the "Company") and **ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, an industrial development agency and a public benefit corporation of the State of New York having its principal office at 584 Phoenix Drive, Rome, New York 13441 (the "Agency").

WITNESSETH:

WHEREAS, the Agency is authorized and empowered by the provisions of Title 1 of Article 18-A of the General Municipal Law, Chapter 99 of the Consolidated Laws of New York, as amended, (the "Enabling Act"), and Chapter 372 of the Laws of 1970 of the State of New York, as amended, constituting Section 901 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, among others, industrial facilities for the purpose of promoting, attracting and developing economically sound commerce and industry in order 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, the Company desires to (1) acquire a ± 7.897 parcel of land situated at the northwest corner of the Hill Road/Floyd Avenue intersection in the Griffiss Business and Technology Park in the City of Rome, County of Oneida, New York (the "Land"); (2) acquire the existing buildings and/or improvements situated on the Land, including a $\pm 117,323$ square foot main building known as Building 240, a $\pm 13,199$ square foot support building known as Building 247 and a $\pm 4,000$ square foot support building known as Building 248 (collectively, the "Existing Improvements"); (3) remediate, demolish and renovate the Existing Improvements; (4) construct additions to the Existing Improvements and/or new buildings on the Land (the "New Improvements") (the Existing Improvements and the New Improvements, collectively, the "Improvements"); and (5) acquire and install equipment in the Improvements; all to be used for the continued coordination of redevelopment efforts for the realigned Griffiss Air Force Base (the Land, the Improvements and the Equipment is referred to collectively as the "Facility" and the acquisition, renovation and equipping of the Facility is referred to collectively as the "Project"); and

WHEREAS, in order to induce the Company to develop the Facility, the Agency is willing to accept a leasehold interest in the Facility pursuant to a Lease Agreement dated of even date herewith and lease the Facility back to the Company pursuant to the terms and conditions contained in a Leaseback Agreement dated of even date herewith; and

WHEREAS, the Agency has agreed to accept a leasehold interest in the Facility in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Facility will be exempt from, among other things, real property taxes, general property taxes, general school district taxes, general assessments, service charges or other governmental charges of a similar nature levied and/or assessed upon the Facility or the interest therein of the Company or the occupancy thereof by the Company (the "Exempt Taxes") commencing on the first date of the Exemption Term, as that date is established by the parties and as described herein, because the Facility is, or will be, under the jurisdiction, supervision and/or control of the Agency and used for a purpose within the meaning of the applicable Constitutional and statutory provisions, including the Enabling Act, provided, however, such exemption will not extend to special assessments or ad valorem levies; and

WHEREAS, the Company understands that it, as lessee of the Facility leased by the Agency, will, in fact, have Exempt Taxes to pay under the provisions of the Leaseback Agreement from the first date of the Exemption Term (as that date is determined by the parties and described herein) through the term of the Leaseback Agreement (the "Exemption Term"); and

WHEREAS, each year of the Exemption Term is more particularly set forth on Schedule B attached hereto (each year being referred to as an "Exemption Year"); and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provision for payments-in-lieu-of-taxes and such assessments by the Company to the City of Rome or any village which may be incorporated after the date hereof, within which the Facility is or may be, wholly or partially located, Oneida County, the Rome City School District and appropriate special districts (hereinafter each a "Taxing Authority" and collectively the "Taxing Authorities") in which any part of the Facility is or is to be located; and

WHEREAS, all defined terms herein as indicated by the capitalization of the first letter thereof and not otherwise defined herein shall have the meanings ascribed to such terms as set forth in the Leaseback Agreement.

NOW, THEREFORE, to provide for certain payments to the Taxing Authorities, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. The Company shall pay to each Taxing Authority:
 - (a) all taxes that are due with respect to the Facility prior to the Exemption Term, no later than the last day during which such payments may be made without penalty; and
 - (b) all special assessments and ad valorem taxes coming due and payable during the term of the Leaseback Agreement for which the Facility is not exempt, no later than the last day during which such payments may be made without penalty.

2. The Company shall pay to each Taxing Authority as set forth on Schedule A attached hereto and made a part hereof an amount in lieu of the Exempt Taxes (the "PILOT Payments") during each Exemption Year as follows:

(a) zero percent (0%) of such taxes from the first through and including the tenth Exemption Year; and

(b) one hundred percent (100%) of such taxes after the tenth Exemption Year.

Anything herein to the contrary, notwithstanding, this Agreement shall terminate on the date on which the Lease Agreement and Leaseback Agreement shall terminate and the Agency shall terminate its leasehold interest in the Facility pursuant to the Leaseback Agreement.

Anything herein to the contrary, notwithstanding, upon the failure of the Company in making any payment when due hereunder and upon failure to cure such default within thirty (30) days of receipt of notice as herein provided, the Company shall henceforth pay as PILOT Payments one hundred percent (100%) of the Exempt Taxes together with interest at the rate of nine percent (9%) per annum on any delinquent PILOT Payments together with expenses of collection, including but not limited to, payment of attorneys' fees; provided, however, nothing herein contained shall be deemed to limit any other rights and remedies the Agency may have hereunder or under any other Transaction Document.

3. The Company will make PILOT Payments to each Taxing Authority hereunder for each Exemption Year by making the required payment to such Taxing Authority no later than the last day during which such Exempt Taxes could otherwise be made without penalty as if the Agency did not own a leasehold interest in the Facility.

4. The PILOT Payments to be made by the Company pursuant to this Agreement are intended to be in lieu of all Exempt Taxes that would have to be paid on the Facility leased to the Company by the Leaseback Agreement.

5. If, by reason of a change in the Constitution or laws of the State of New York, or an interpretation of the Constitution or the laws of the State of New York by the Court of Appeals (or such lower court from which the time to appeal has expired) of the State of New York, or for any other reason, the Company is required to pay any tax which the payments specified herein are intended to be in lieu of, the Company may deduct the aggregate of any such payments made by it from the amount herein agreed to be paid in lieu of such taxes and need only pay the difference (if such difference is a positive number). Furthermore, inasmuch as the PILOT Payments herein agreed to be made by the Company are intended to be in lieu of all Exempt Taxes, it is agreed that said payments shall not, as to any Exemption Year, be in an amount greater than would be payable for such year for such Exempt Taxes, in the aggregate, by a private corporation on account of the Agency's ownership of a leasehold interest in the Facility.

6. This Agreement shall be binding upon the successors and assigns of the parties.

7. It is the intent of the parties that the Company will have all the rights and remedies of a taxpayer with respect to any real property or other tax, service charge, special benefit, ad valorem levy, assessment or special assessment because of which, or in lieu of which, the Company is obligated to make a payment hereunder, as if and to the same extent as if the Agency did not own a leasehold interest in the Facility. It is the further intent of the parties that the Company will have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Facility with respect to any proposed assessment or change in assessment concerning the property, or any portion thereof, whether through an assessor, board of assessment review, court of law, or otherwise and likewise will be entitled to protest before and be heard by such assessor, board of assessment review, court of law or otherwise and will be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any taxes that would have been payable but for the provisions hereof. In the event, however, that a court of competent jurisdiction shall enter an order or judgment determining or declaring that, by reason of the Agency's ownership of a leasehold interest in the Facility, the Company does not have the right to bring a proceeding to review such assessment under the Real Property Tax Law or any other law, then the Company shall have the right to contest such assessment in the name and as the agent of the Agency, and the Agency agrees to cooperate with the Company in all respects in any such proceeding.

8. All amounts payable by the Company hereunder will be paid to the respective Taxing Authority and will be payable in such lawful money of the United States of America as at the time of payment is legal tender for the payment of public and private debts, including a check payable in such money.

9. (a) If any term or provision hereof should be for any reason held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such term or provision will be deemed separate and independent and the remainder hereof will remain in full force and effect and will not be invalidated, impaired or otherwise affected by such holding or adjudication.

(b) This Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

(c) All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when received or upon refusal of receipt by United States registered or certified mail, postage prepaid, return receipt requested, to the Agency or the Company, as the case may be, addressed as follows:

If to the Agency:

Oneida County Industrial Development Agency
584 Phoenix Drive
Rome, New York 13441
Attn: Chairman

With a copy to:

Bond, Schoeneck & King, PLLC
501 Main Street
Utica, New York 13501
Attn: Linda E. Romano, Esq.

If to the Company:

Griffiss Local Development Corporation
584 Phoenix Drive
Rome, New York 13441
Attn: Steven J. DiMeo, Authorized Representative

With a copy to:


Joseph E. Saunders, Esq.
Saunders Kahler, L.L.P.
185 Genesee Street, Suite 1400
Utica, New York 13501

provided, that the Agency or the Company may, by notice given hereunder to the other, designate any further or different addresses to which subsequent notices, certificates or other communications to them shall be sent.

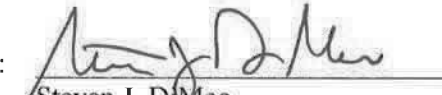
(d) This Agreement shall be governed by and construed in accordance with the law of the State of New York, exclusive of its conflicts of law principles.

IN WITNESS WHEREOF, the parties have executed this **PILOT Agreement** as of the date first above written.

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY


By: 
Natalie L. Brown
Its Vice Chairman

GRIFFISS LOCAL DEVELOPMENT
CORPORATION

By: 
Steven J. DiMeo
Its Authorized Representative

STATE OF NEW YORK)
) SS:
COUNTY OF ONEIDA)

On the 23rd day of July 2014 before me, the undersigned a notary public in and for said state, personally appeared **Natalie L. Brown**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

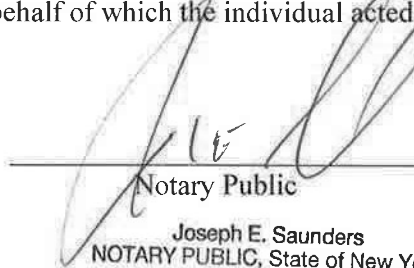


Notary Public

LAURA S. RUBERTO
Notary Public, State of New York
Appointed in Oneida County
Reg. No. 01RU5031396
Commission Expires August 1, 2014

STATE OF NEW YORK)
) SS:
COUNTY OF ONEIDA)

On the 24th day of July 2014 before me, the undersigned a notary public in and for said state, personally appeared **Steven J. DiMeo**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

Joseph E. Saunders
NOTARY PUBLIC, State of New York
Appointed in Oneida County
License No. 02SA4745082
My Commission Expires: 11/30/ 2017

SCHEDULE A

Receiver of Taxes
Oneida County
800 Park Avenue
Utica, NY 13501

Receiver of Taxes
City of Rome
City Hall
198 North Washington Street
Rome, New York 13440
Attn.: City Treasurer

Receiver of Taxes
Rome City School District
Attn.: David Dreidel, District Treasurer
409 Bell Street
Rome, New York 13440

SCHEDULE B

EXEMPTION YEARS

<u>Exemption Year (Assessment Roll Year)</u>	<u>County/City Taxes</u>	<u>School Taxes</u>
Year One (07/29/2014)	01/01/2015 – 12/31/2015	07/01/2015 – 06/30/2016
Year Two (07/28/2015)	01/01/2016 – 12/31/2016	07/01/2016 – 06/30/2017
Year Three (07/26/2016)	01/01/2017 – 12/31/2017	07/01/2017 – 06/30/2018
Year Four (07/25/2017)	01/01/2018 – 12/31/2018	07/01/2018 – 06/30/2019
Year Five (07/31/2018)	01/01/2019 – 12/31/2019	07/01/2019 – 06/30/2020
Year Six (07/30/2019)	01/01/2020 – 12/31/2020	07/01/2020 – 06/30/2021
Year Seven (07/28/2020)	01/01/2021 – 12/31/2021	07/01/2021 – 06/30/2022
Year Eight (07/27/2021)	01/01/2022 – 12/31/2022	07/01/2022 – 06/30/2023
Year Nine (07/26/2022)	01/01/2023 – 12/31/2023	07/01/2023 – 06/30/2024
Year Ten (07/30/2023)	01/01/2024 – 12/31/2024	07/01/2024 – 06/30/2025