TOWN OF ISLIP
INDUSTRIAL DEVELOPMENT AGENCY
AGENDA ITEMS FOR DECEMBER 19, 2017

AGENDA ITEM # 1

TYPE OF RESOLUTION: PLEASE CALL THE MEETING OF THE TOWN OF ISLIP IDA TO ORDER

COMPANY: N/A

PROJECT LOCATION: N/A

JOBS (RETAINED/CREATED): RETAINED - -
                             CREATE - -

INVESTMENT: N/A
MEETING OF THE TOWN OF ISLIP
INDUSTRIAL DEVELOPMENT AGENCY
December 19, 2017
Agenda

1. Call the meeting of the Town of Islip Industrial Development Agency to order.

2. To consider the adoption of a Resolution on behalf of the Town of Islip Industrial Development Agency to approve the minutes from the meeting on November 21, 2017.

3. To consider the adoption of an Inducement Resolution between the Town of Islip Industrial Development Agency and Tensator, Inc. Located at 260 Spur Drive South, Bay Shore.

4. To consider the adoption of an Inducement Resolution between the Town of Islip Industrial Development Agency and Plastirun Corporation. Located at 70 Emjay Blvd, Brentwood.

5. To consider the adoption of an Inducement Resolution between the Town of Islip Industrial Development Agency and North District Lofts, LLC. Located at 61 & 57 Park Ave, Bay Shore.

6. To consider the adoption of an Inducement Resolution between the Town of Islip Industrial Development Agency and Maple Ave Lofts, LLC 2017. Located at 11 Maple Ave, Bay Shore.

7. To consider the adoption of an Amended Authorizing Resolution between the Town of Islip Industrial Development Agency and Galil Importing Corporation. Located at 45 Gilpin Avenue, Hauppauge.

8. To consider the adoption of an Authorizing Resolution between the Town of Islip Industrial Development Agency and Andreassi Associates. Located at

9. To consider the adoption of an Authorizing Resolution between the Town of Islip Industrial Development Agency and Bancker Construction Corp./Beyer Islip Realty, Inc. Located at 171 Freedom Avenue, Islip.

10. To consider the adoption of an Authorizing Resolution between the Town of Islip Industrial Development Agency and Water Lilies Food, Inc. Located at 1724 5th Avenue, Bay Shore.

11. To consider the adoption of a Resolution Authorizing the Town of Islip Industrial Development Agency to enter into a contract with Camoin Associates for an update to the Fiscal Impact Analysis previously prepared for the Heartland Town Square Project.

12. To consider any other business that may come before the Agency.
TOWN OF ISLIP
INDUSTRIAL DEVELOPMENT AGENCY
AGENDA ITEMS FOR DECEMBER 19, 2017

AGENDA ITEM # 2

TYPE OF RESOLUTION: APPROVE THE MEETING MINUTES FROM NOVEMBER 21, 2017

COMPANY: N/A

PROJECT LOCATION: N/A

JOBS (RETAINED/CREATED): RETAINED --
CREATE --

INVESTMENT: N/A
MEETING OF THE TOWN OF ISLIP
INDUSTRIAL DEVELOPMENT AGENCY
November 21, 2017
Meeting Minutes

1. The Meeting of the Town of Islip Industrial Development Agency was called to order on a motion by Councilman John Cochrane and seconded by Councilman Steve Flotteron, 5-0.

Members Angie M. Carpenter, Councilwoman Mary Kate Mullen, Councilman John Cochrane, Councilman Steve Flotteron and Councilwoman Trish Bergin Weichbrodt were present and the Chairwoman acknowledged a quorum.

2. To consider the adoption of a Resolution on behalf of the Town of Islip Industrial Development Agency to approve the Minutes from the meeting on October 24, 2017. On a motion by Councilwoman Mary Kate Mullen and seconded by Councilwoman Trish Bergin Weichbrodt, said motion was approved unanimously, 5-0.

3. To consider the adoption of an Inducement Resolution between the Town of Islip Industrial Development Agency and Baneker Construction Corp/Beyer Islip Realty, Inc. Located at 171 Freeman Ave, Islip. On a motion by Councilman John Cochrane and seconded by Councilman Steve Flotteron, said motion was approved unanimously, 5-0.

4. To consider the adoption of an Inducement Resolution between the Town of Islip Industrial Development Agency and Water Lilies, Inc. Located at 1724 5th Avenue, Bay Shore. On a motion by Councilman John Cochrane and seconded by Councilman Steve Flotteron, said motion was approved unanimously, 5-0.

5. To consider the adoption of a Resolution Authorizing the subleasing of a portion of the Suffolk County Industrial, LLC 2016 Facility to Water Lilies, Inc, and the execution of a Tenant Agency Compliance Agreement in connection therewith. Located at 1724 5th Avenue, Bay Shore. On a motion by Councilwoman Mary Kate Mullen and seconded by Councilman Steve Flotteron, said motion was approved unanimously, 5-0.

6. To consider the adoption of a Resolution Authorizing between the Town of Islip Industrial Development Agency and Castella Imports, Inc. On a motion by Councilwoman Trish Bergin Weichbrodt and seconded by Councilman John Cochrane, said motion was approved unanimously, 5-0.

7. To consider the adoption of an Authorizing Resolution between the Town of Islip Industrial Development Agency and BSL Great River, LLC. On a motion by Councilwoman Mary Kate Mullen and seconded by Councilman John Cochrane, said motion was approved unanimously, 5-0.

8. To consider the adoption of an Amended Authorizing Resolution between the Town of Islip Industrial Development Agency and 75 Sunrise Highway, LLC. To increase capital expenditures projections eligible for sales tax exemptions by $2,000,000 to purchase equipment. On a motion by Councilman John Cochrane and seconded by Councilman Steve Flotteron, said motion was approved unanimously, 5-0.

9. To consider the adoption of a Resolution Authorizing the subleasing of a portion of the Hauppauge Office Park Associates, LLC 2014 Facility to La Bonne Vie Organization, LLC and the execution of a Tenant Agency Compliance Agreement in connection therewith. On a motion by Councilman Steve Flotteron and seconded by Councilwoman Mary Kate Mullen, said motion was approved unanimously, 5-0.

10. To consider any other business to come before the Agency, there being none the meeting adjourned on a motion by Councilman Steve Flotteron and seconded by Councilwoman Trish Bergin Weichbrodt, 5-0.
AGENDA ITEM # 3

TYPE OF RESOLUTION: INDUCEMENT RESOLUTION

COMPANY: TENSATOR INC.

PROJECT LOCATION: 260 SPUR DR SOUTH, BAY SHORE

JOBS (RETAINED/CREATED): RETAINED - 65 - CREATE - 07 -

INVESTMENT: $2,250,000
RESOLUTION OF THE TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY TAKING OFFICIAL ACTION TOWARD APPOINTING BDG BAY SHORE, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF BDG BAY SHORE, LLC AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING AND TENSATOR INC., A NEW YORK BUSINESS CORPORATION ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF TENSATOR INC. AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING, AS AGENT(S) OF THE AGENCY FOR THE PURPOSE OF ACQUIRING, RENOVATING AND EQUIPPING THE FACILITY AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE FACILITY

WHEREAS, BDG Bay Shore, LLC, a limited liability company organized and existing under the laws of the State of Delaware, on behalf of itself and/or the principals of BDG Bay Shore, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company") and Tensator Inc., a business corporation organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Tensator Inc. and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Sublessee"), have applied to the Town of Islip Industrial Development Agency (the "Agency"), to enter into a transaction in which the Agency will assist in (a) the acquisition of an approximately 4.0 acre parcel of land located at 260 Spur Drive South, Bay Shore, New York 11706 (the "Land"), the renovation of an approximately 80,000 square foot building located thereon (the "Improvements"), and the acquisition and installation therein of certain equipment and personal property, not part of the Equipment (as such term is defined herein) (the "Facility Equipment"); and, together with the Land and the Improvements, the "Company Facility"), which Company Facility is to be leased by the Agency to the Company and further subleased by the Company to the Sublessee; and (b) the acquisition and installation of certain equipment and personal property, including but not limited to a new office equipment, furniture, manufacturing equipment and information technology equipment, (collectively, the "Equipment"; and together with the Company Facility, the "Facility"), which Equipment is to be leased by the Agency to the Sublessee, and which Facility is to be used by the Sublessee as office, manufacturing and distribution space in its business as a manufacturer and distributor of crowd control and customer guidance systems, and approximately 10,000 square feet of space (inclusive of office space, warehouse space, 2 loading docks and 1 drive-in for trucks will be leased to a tenant or tenants (the "Tenant") (the "Project"); and

WHEREAS, the Agency will acquire a leasehold interest in the Land and the Improvements and title to the Facility Equipment and Equipment, will sublease and lease the Company Facility to the Company for further sublease to the Sublessee and will lease the Equipment to the Sublessee, all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 47 of the Laws of 1974 of the State of New York, as the same may be amended from time to time (collectively, the "Act"); and
WHEREAS, the Agency contemplates that it will provide financial assistance to the Company and the Sublessee in connection with the Facility, consistent with the policies of the Agency, in the form of exemptions from mortgage recording taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes and abatement of real property taxes, consistent with the policies of the Agency, all to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein; and

WHEREAS, as of the date of this resolution, no determination for financial assistance has been made; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, prior to the date of the Hearing (defined below), the Agency will have made a determination for financial assistance; and

WHEREAS, prior to the closing of the transaction described herein, a public hearing (the “Hearing”) will be held so that all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency or the location or nature of the Facility can be heard; and

WHEREAS, notice of the Hearing will be given prior to the closing of the transaction described herein, and such notice (together with proof of publication) will be substantially in the form annexed hereto as Exhibit A; and

WHEREAS, the minutes of the Hearing are or will be annexed hereto as Exhibit B; and

WHEREAS, the Agency has given due consideration to the application of the Company and the Sublessee and to representations by the Company and the Sublessee that the proposed financial assistance is either an inducement to the Company and the Sublessee to maintain the Facility in the Town of Islip or is necessary to maintain the competitive position of the Company and the Sublessee in their respective industries; and

WHEREAS, the Company and the Sublessee have agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated by the leasing of the Facility by the Agency to the Company and the Sublessee.

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the “SEQR Act” or “SEQR”), the Agency constitutes a “State Agency”; and

WHEREAS, to aid the Agency in determining whether the Facility may have a significant effect upon the environment, the Company and Sublessee have prepared and submitted to the Agency an Environmental Assessment Form and related documents (the
“Questionnaire”) with respect to the Facility, a copy of which is on file at the office of the Agency; and

WHEREAS, the Questionnaire has been reviewed by the Agency.

NOW, THEREFORE, BE IT RESOLVED by the Town of Islip Industrial Development Agency (a majority of the members thereof affirmatively concurring) that:

Section 1. Based upon the Environmental Assessment Form completed by the Company and the Sublessee and reviewed by the Agency and other representations and information furnished by the Company and the Sublessee regarding the Facility, the Agency determines that the action relating to the acquisition, renovation, equipping, and operation of the Facility is an “unlisted” action, as that term is defined in the SEQR Act. The Agency also determines that the action will not have a “significant effect” on the environment, and, therefore, an environmental impact statement will not be prepared. This determination constitutes a negative declaration for purposes of SEQR. Notice of this determination shall be filed to the extent required by the applicable regulations under SEQR or as may be deemed advisable by the Chairman or Executive Director of the Agency or counsel to the Agency.

Section 2. The acquisition, renovation and equipping of the Facility by the Agency, the subleasing and leasing of the Company Facility to the Company for further subleasing to the Sublessee, the leasing of the Equipment to the Sublessee and the provision of financial assistance pursuant to the Act will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the Town of Islip and the people of the State of New York and improve their standard of living, and thereby serve the public purposes of the Act, and the same is, therefore, approved.

Section 3. Subject to the provisions of this resolution, the Agency shall (i) acquire, renovate and equip the Facility; (ii) lease and sublease the Company Facility to the Company; and (iii) lease the Equipment to the Sublessee.

Section 4. The Company and the Sublessee hereby agree to comply with Section 875 of the Act. The Company and the Sublessee further agree that the tax exemptions and abatements provided pursuant to the Act and the appointment of the Company and the Sublessee as agents of the Agency pursuant to this resolution are subject to termination and recapture of benefits pursuant to Sections 859-a and 875 of the Act and the recapture provisions of the Lease and Project Agreement, dated a date to be determined (the “Lease Agreement”), by and between the Company and the Agency, and the Agency Compliance Agreement, dated a date to be determined (the “Agency Compliance Agreement”), by and between the Sublessee and the Agency.

Section 5. Counsel to the Agency is authorized and directed to work with Transaction Counsel (Nixon Peabody LLP) to prepare, for submission to the Agency, all documents necessary to affect the transfer of the real estate described in the foregoing resolution.

Section 6. The Chairman, the Executive Director, the Deputy Executive Director and all members of the Agency are hereby authorized and directed (i) to distribute copies of
this resolution to the Company and the Sublessee, and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 7. Any expenses incurred by the Agency with respect to the Facility, including the expenses of Transaction Counsel, shall be paid by the Company and the Sublessee. By acceptance hereof, the Company and the Sublessee agree to pay such expenses and further agree to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Facility.

Section 8. This resolution shall take effect immediately.

ADOPTED: December 19, 2017
ACCEPTED: ________ 2017

BDG BAY SHORE, LLC

By:______________________________
Name:
Title:

TENSATOR INC.

By:______________________________
Name:
Title:
STATE OF NEW YORK  )
COUNTY OF SUFFOLK  )

I, the undersigned Assistant Secretary of the Town of Islip Industrial Development Agency, DO HEREBY CERTIFY THAT:

I have compared the foregoing copy of a resolution of the Town of Islip Industrial Development Agency (the "Agency") with the original thereof on file in the office of the Agency, and the same is a true and correct copy of such resolution and of the proceedings of the Agency in connection with such matter.

Such resolution was passed at a meeting of the Agency duly convened in public session on December 19, 2017, at Islip Town Hall, 655 Main Street, Islip, New York, at which meeting the following members were:

Present:

Absent:

Also Present:

The question of the adoption of the foregoing resolution was duly put to vote on roll call, which resulted as follows:

Voting Aye

and, therefore, the resolution was declared duly adopted.

The Application is in substantially the form presented to and approved at such meeting.
I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), (ii) said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections 103a and 104, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand as of December 19, 2017.

______________________________
Assistant Secretary
TOWN OF ISLIP
INDUSTRIAL DEVELOPMENT AGENCY
AGENDA ITEMS FOR DECEMBER 19, 2017

AGENDA ITEM # 4

TYPE OF RESOLUTION: INDUCEMENT RESOLUTION

COMPANY: PLASTIRUN CORPORATION

PROJECT LOCATION: 70 EMJAY BLVD, BRENTWOOD

JOBS (RETAINED/CREATED): RETAINED - 62 -
CREATE - 05 -

INVESTMENT: $3,940,000
RESOLUTION OF THE TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY TAKING OFFICIAL ACTION TOWARD APPOINTING JETSON REALTY CORP., A NEW YORK BUSINESS CORPORATION, ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF JETSON REALTY CORP. AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING AND PLASTIRUNN CORPORATION, A NEW YORK BUSINESS CORPORATION ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF PLASTIRUNN CORPORATION AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING, AS AGENT(S) OF THE AGENCY FOR THE PURPOSE OF ACQUIRING, RENOVATING AND EQUIPPING THE FACILITY AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE FACILITY.

WHEREAS, Jetson Realty Corp., a business corporation organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Jetson Realty Corp. and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Company”) and Plastirunn Corporation, a business corporation organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Plastirunn Corporation and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Sublessee”), have applied to the Town of Islip Industrial Development Agency (the “Agency”), to enter into a transaction in which the Agency will assist in (a) the acquisition of an approximately 3.0 acre parcel of land located at 70 Emjay Boulevard, Brentwood, New York 11717 (the “Land”), the renovation of approximately 102,000 square foot building located thereon (the “Improvements”), and the acquisition and installation therein of certain equipment and personal property, not part of the Equipment (as such term is defined herein) (the “Facility Equipment”; and, together with the Land and the Improvements, the “Company Facility”), which Company Facility is to be leased by the Agency to the Company and further subleased by the Company to the Sublessee; and (b) the acquisition and installation of certain equipment and personal property (the “Equipment”; and together with the Company Facility, the “Facility”), which Equipment is to be leased by the Agency to the Sublessee and which Facility is to be used by the Sublessee as manufacturing space in its business as a manufacturer of disposable paper products (the “Project”); and

WHEREAS, the Agency will acquire a leasehold interest in the Land and the Improvements and title to the Facility Equipment and Equipment, will sublease and lease the Company Facility to the Company for further sublease to the Sublessee and will lease the Equipment to the Sublessee, all pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 47 of the Laws of 1974 of the State of New York, as the same may be amended from time to time (collectively, the “Act”); and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company and the Sublessee in connection with the Facility, consistent with the policies of the
Agency, in the form of exemptions from sales and use taxes and abatement of real property taxes, consistent with the policies of the Agency, all to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein; and

WHEREAS, as of the date of this resolution, no determination for financial assistance has been made; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, prior to the date of the Hearing (defined below), the Agency will have made a determination for financial assistance; and

WHEREAS, prior to the closing of the transaction described herein, a public hearing (the “Hearing”) will be held so that all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency or the location or nature of the Facility can be heard; and

WHEREAS, notice of the Hearing will be given prior to the closing of the transaction described herein, and such notice (together with proof of publication) will be substantially in the form annexed hereto as Exhibit A; and

WHEREAS, the minutes of the Hearing are or will be annexed hereto as Exhibit B; and

WHEREAS, the Agency has given due consideration to the application of the Company and the Sublessee and to representations by the Company and the Sublessee that the proposed financial assistance is an inducement to the Company and the Sublessee to maintain the Facility in the Town of Islip, to prevent the Company and the Sublessee from moving the Facility to Pennsylvania, and is necessary to maintain the competitive position of the Company and the Sublessee in their respective industries; and

WHEREAS, the Company and the Sublessee have agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated by the leasing of the Facility by the Agency to the Company and the Sublessee.

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the “SEQR Act” or “SEQR”), the Agency constitutes a “State Agency”; and

WHEREAS, to aid the Agency in determining whether the Facility may have a significant effect upon the environment, the Company and Sublessee have prepared and submitted to the Agency an Environmental Assessment Form and related documents (the
“Questionnaire”) with respect to the Facility, a copy of which is on file at the office of the Agency; and

WHEREAS, the Questionnaire has been reviewed by the Agency.

NOW, THEREFORE, BE IT RESOLVED by the Town of Islip Industrial Development Agency (a majority of the members thereof affirmatively concurring) that:

Section 1. Based upon the Environmental Assessment Form completed by the Company and the Sublessee and reviewed by the Agency and other representations and information furnished by the Company and the Sublessee regarding the Facility, the Agency determines that the action relating to the acquisition, renovation, equipping, and operation of the Facility is an “unlisted” action, as that term is defined in the SEQR Act. The Agency also determines that the action will not have a “significant effect” on the environment, and, therefore, an environmental impact statement will not be prepared. This determination constitutes a negative declaration for purposes of SEQR. Notice of this determination shall be filed to the extent required by the applicable regulations under SEQR or as may be deemed advisable by the Chairman or Executive Director of the Agency or counsel to the Agency.

Section 2. The acquisition, renovation and equipping of the Facility by the Agency, the subleasing and leasing of the Company Facility to the Company for further subleasing to the Sublessee, the leasing of the Equipment to the Sublessee and the provision of financial assistance pursuant to the Act will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the Town of Islip and the people of the State of New York and improve their standard of living, and thereby serve the public purposes of the Act, and the same is, therefore, approved.

Section 3. Subject to the provisions of this resolution, the Agency shall (i) acquire, renovate and equip the Facility; (ii) lease and sublease the Company Facility to the Company; and (iii) lease the Equipment to the Sublessee.

Section 4. The Company and the Sublessee hereby agree to comply with Section 875 of the Act. The Company and the Sublessee further agree that the tax exemptions and abatements provided pursuant to the Act and the appointment of the Company and the Sublessee as agents of the Agency pursuant to this resolution are subject to termination and recapture of benefits pursuant to Sections 859-a and 875 of the Act and the recapture provisions of the Lease and Project Agreement, dated a date to be determined (the “Lease Agreement”), by and between the Company and the Agency, and the Agency Compliance Agreement, dated a date to be determined (the “Agency Compliance Agreement”), by and between the Sublessee and the Agency.

Section 5. Counsel to the Agency is authorized and directed to work with Transaction Counsel (Nixon Peabody LLP) to prepare, for submission to the Agency, all documents necessary to affect the transfer of the real estate described in the foregoing resolution.

Section 6. The Chairman, the Executive Director, the Deputy Executive Director and all members of the Agency are hereby authorized and directed (i) to distribute copies of
this resolution to the Company and the Sublessee, and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 7. Any expenses incurred by the Agency with respect to the Facility, including the expenses of Transaction Counsel, shall be paid by the Company and the Sublessee. By acceptance hereof, the Company and the Sublessee agree to pay such expenses and further agree to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Facility.

Section 8. This resolution shall take effect immediately.

ADOPTED: December 19, 2017

ACCEPTED: _______ 2017

JETSON REALTY CORP.

By: __________________________
Name:
Title:

PLASTIRUNN CORPORATION

By: __________________________
Name:
Title:
STATE OF NEW YORK )
COUNTY OF SUFFOLK )

I, the undersigned Assistant Secretary of the Town of Islip Industrial Development Agency, DO HEREBY CERTIFY THAT:

I have compared the foregoing copy of a resolution of the Town of Islip Industrial Development Agency (the "Agency") with the original thereof on file in the office of the Agency, and the same is a true and correct copy of such resolution and of the proceedings of the Agency in connection with such matter.

Such resolution was passed at a meeting of the Agency duly convened in public session on December 19, 2017, at Islip Town Hall, 655 Main Street, Islip, New York, at which meeting the following members were:

Present:

Absent:

Also Present:

The question of the adoption of the foregoing resolution was duly put to vote on roll call, which resulted as follows:

Voting Aye

and, therefore, the resolution was declared duly adopted.

The Application is in substantially the form presented to and approved at such meeting.
I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), (ii) said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections 103a and 104, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand as of December 19, 2017.

__________________________________
Assistant Secretary
AGENDA ITEM # 5

TYPE OF RESOLUTION: INDUCEMENT RESOLUTION

COMPANY: NORTH DISTRICT LOFTS, LLC

PROJECT LOCATION: 61 & 57 PARK AVE, BAY SHORE

JOBS (RETAINED/CREATED): RETAINED - 00 - CREATE - 03 -

INVESTMENT: $22,485,000
RESOLUTION OF THE TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY TAKING OFFICIAL ACTION TOWARD APPOINTING PARK AVE BAY SHORE LLC, A NEW YORK LIMITED LIABILITY COMPANY, ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF PARK AVE BAY SHORE LLC AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING AS AGENT(S) OF THE AGENCY FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING AND EQUIPPING THE FACILITY AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE FACILITY

WHEREAS, Park Ave Bay Shore LLC, a limited liability company organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Park Ave Bay Shore LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Company”), has applied to the Town of Islip Industrial Development Agency (the “Agency”), to enter into a transaction in which the Agency will assist in the acquisition of an approximately 1.607 acre parcel of land (Tax Map #0500-393.00-02.00-108.002) located at 61 and 57 Park Avenue, Bay Shore, New York 11706 (the “Land”), the construction of an approximately 118,612 square foot building thereon (the “Improvements”), and the acquisition and installation therein of certain equipment and personal property (the “Equipment”; and, together with the Land and the Improvements, the “Facility”), which Facility is to be leased by the Agency to the Company and is to be used by the Company as a mixed-use facility with approximately 90 residential apartments and approximately 1,000 square feet of commercial/retail space (the “Project”); and

WHEREAS, the Agency will acquire a leasehold interest in the Land and the Improvements and title to the Equipment, will sublease and lease the Facility to the Company, all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 47 of the Laws of 1974 of the State of New York, as the same may be amended from time to time (collectively, the “Act”); and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company in connection with the Facility, consistent with the policies of the Agency, in the form of exemptions from mortgage recording taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes and abatement of real property taxes, consistent with the policies of the Agency, all to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein; and

WHEREAS, as of the date of this resolution, no determination for financial assistance has been made; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and
WHEREAS, prior to the date of the Hearing (defined below), the Agency will have made a determination for financial assistance; and

WHEREAS, prior to the closing of the transaction described herein, a public hearing (the “Hearing”) will be held so that all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency or the location or nature of the Facility can be heard; and

WHEREAS, notice of the Hearing will be given prior to the closing of the transaction described herein, and such notice (together with proof of publication) will be substantially in the form annexed hereto as Exhibit A; and

WHEREAS, the minutes of the Hearing are or will be annexed hereto as Exhibit B; and

WHEREAS, the Agency has given due consideration to the application of the Company and to representations by the Company that the proposed financial assistance is either an inducement to the Company to maintain the Facility in the Town of Islip or is necessary to maintain the competitive position of the Company in its industry; and

WHEREAS, the Agency has required the Company to provide to the Agency a feasibility report (the “Feasibility Study”), together with such letters or reports from interested parties and governmental agencies or officials (the “Letters of Support”; and together with the Feasibility Study, the “Requisite Materials”) to enable the Agency to make findings and determinations that the Facility qualifies as a “project” under the Act and that the Facility satisfies all other requirements of the Act, and such Requisite Materials are listed below and attached as Exhibit C hereof:


2. Chamber of Commerce of Greater Bay Shore Letter, dated November 29, 2017;


5. Ryan et al. v. Town of Hempstead Industrial Development Agency et al.; and

WHEREAS, the Agency’s Uniform Tax Exemption Policy (“UTEPA”), which such UTEPA is annexed hereto as Exhibit D, provides for the granting of financial assistance by the Agency for housing projects pursuant to Section 1A.4; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the
State of New York (collectively, the “SEQR Act” or “SEQR”), the Agency constitutes a “State Agency”; and

WHEREAS, to aid the Agency in determining whether the Facility may have a significant effect upon the environment, the Company has prepared and submitted to the Agency an Environmental Assessment Form and related documents (the “Questionnaire”) with respect to the Facility, a copy of which is on file at the office of the Agency; and

WHEREAS, the Questionnaire has been reviewed by the Agency; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated by the leasing of the Facility by the Agency to the Company.

NOW, THEREFORE, BE IT RESOLVED by the Town of Islip Industrial Development Agency (a majority of the members thereof affirmatively concurring) that:

Section 1. Based upon the Environmental Assessment Form completed by the Company and reviewed by the Agency and other representations and information furnished by the Company regarding the Facility, the Agency determines that the action relating to the acquisition, demolition, construction, equipping, furnishing and operation of the Facility is an “unlisted” action, as that term is defined in the SEQR Act. The Agency also determines that the action will not have a “significant effect” on the environment, and, therefore, an environmental impact statement will not be prepared. This determination constitutes a negative declaration for purposes of SEQR. Notice of this determination shall be filed to the extent required by the applicable regulations under SEQR or as may be deemed advisable by the Chairman or Executive Director of the Agency or counsel to the Agency.

Section 2. In connection with the acquisition, construction and equipping of the Facility the Agency hereby makes the following determinations and findings based upon the Agency’s review of the information provided by the Company with respect to the Facility, including, the Company’s Application, the Requisite Materials and other public information:

(a) There is a lack of affordable, safe, clean and modern rental housing in the Town of Islip, Suffolk County;

(b) Such lack of rental housing has resulted in individuals leaving the Town of Islip and therefore adversely affecting employers, businesses, retailers, banks, financial institutions, insurance companies, health and legal services providers and other merchants in the Town of Islip and otherwise adversely impacting the economic health and well-being of the residents of the Town of Islip, employers, and the tax base of the Town of Islip;

(c) The Facility, by providing such rental housing will enable persons to remain in the Town of Islip and thereby to support the businesses, retailers, banks, and other financial institutions, insurance companies, health care and legal services providers and other merchants in the Town of Islip which will increase the
economic health and well-being of the residents of the Town of Islip, help preserve and increase permanent private sector jobs in furtherance of the Agency’s public purposes as set forth in the Act, and therefore the Agency finds and determines that the Facility is a commercial project within the meaning of Section 854(4) of the Act:

(d) The Facility will provide services, i.e., rental housing, which but for the Facility, would not otherwise be reasonably accessible to the residents of the Town of Islip.

Section 3. The acquisition, construction and equipping of the Facility by the Agency, the subleasing and leasing of the Facility to the Company and the provision of financial assistance pursuant to the Act will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the Town of Islip and the people of the State of New York and improve their standard of living, and thereby serve the public purposes of the Act, and the same is, therefore, approved.

Section 4. Subject to the provisions of this resolution, the Agency shall (i) acquire, construct and equip the Facility, and (ii) lease and sublease the Facility to the Company.

Section 5. The Company hereby agrees to comply with Section 875 of the Act. The Company further agrees that the tax exemptions and abatements provided pursuant to the Act and the appointment of the Company as agent of the Agency pursuant to this Authorizing Resolution are subject to termination and recapture of benefits pursuant to Sections 859-a and 875 of the Act and the recapture provisions of the Lease and Project Agreement, dated a date to be determined (the “Lease Agreement”), by and between the Company and the Agency.

Section 6. Counsel to the Agency is authorized and directed to work with Transaction Counsel (Nixon Peabody LLP) to prepare, for submission to the Agency, all documents necessary to affect the transfer of the real estate described in the foregoing resolution.

Section 7. The Chairman, the Executive Director, the Deputy Executive Director and all members of the Agency are hereby authorized and directed (i) to distribute copies of this resolution to the Company, and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 8. Any expenses incurred by the Agency with respect to the Facility, including the expenses of Transaction Counsel, shall be paid by the Company. By acceptance hereof, the Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damages or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Facility.
Section 9. This resolution shall take effect immediately.

ADOPTED: December 19, 2017
ACCEPTED: ________, 2017

PARK AVE BAY SHORE LLC

By: _______________________
Name: _____________________
Title: ______________________
STATE OF NEW YORK

COUNTY OF SUFFOLK

I, the undersigned Assistant Secretary of the Town of Islip Industrial Development Agency, DO HEREBY CERTIFY THAT:

I have compared the foregoing copy of a resolution of the Town of Islip Industrial Development Agency (the "Agency") with the original thereof on file in the office of the Agency, and the same is a true and correct copy of such resolution and of the proceedings of the Agency in connection with such matter.

Such resolution was passed at a meeting of the Agency duly convened in public session on December 19, 2017, at Islip Town Hall, 655 Main Street, Islip, New York, at which meeting the following members were:

Present:

Absent:

Also Present:

The question of the adoption of the foregoing resolution was duly put to vote on roll call, which resulted as follows:

Voting Aye

and, therefore, the resolution was declared duly adopted.

The Application is in substantially the form presented to and approved at such meeting.
I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law). (ii) said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections 103a and 104. (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand as of December 19, 2017.

______________________________
Assistant Secretary
EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Title 1 of Article 18-A of the New York State General Municipal Law will be held by the Town of Islip Industrial Development Agency on the ___ day of ________, 201__, at _____ __m., local time, at 40 Nassau Avenue, Islip, New York 11751 in connection with the following matters:

Park Ave Bay Shore LLC, a limited liability company organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Park Ave Bay Shore LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Company”), has applied to the Town of Islip Industrial Development Agency (the “Agency”), to enter into a transaction in which the Agency will assist in the acquisition of an approximately 1.607 acre parcel of land (Tax Map #0500-393.00-02.00-108.002) located at 61 and 57 Park Avenue, Bay Shore, New York 11706 (the “Land”), the construction of an approximately 118,612 square foot building thereon (the “Improvements”), and the acquisition and installation therein of certain equipment and personal property (the “Equipment”); and, together with the Land and the Improvements, the “Facility”), which Facility is to be leased by the Agency to the Company and is to be used by the Company as a mixed-use facility with approximately 90 residential apartments and approximately 1,000 square feet of commercial/retail space (the “Project”). The Facility will be initially owned, operated and/or managed by the Company.

The Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from mortgage recording taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes and abatement of real property taxes, consistent with the policies of the Agency.

A representative of the Agency will, at the above-stated time and place, hear and accept written comments from all persons with views in favor of or opposed to either the proposed financial assistance to the Company or the location or nature of the Facility. At the hearing, all persons will have the opportunity to review the application for financial assistance filed by the Company with the Agency and an analysis of the costs and benefits of the proposed Facility.

Dated: December __, 2017

TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY

By: William G. Mannix
Title: Executive Director
EXHIBIT B

MINUTES OF PUBLIC HEARING HELD ON

________. 201_

TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY
(PARK AVE BAY SHORE LLC 2017 FACILITY)

Section 1. __________________________ of the Town of Islip Industrial Development Agency (the “Agency”) called the hearing to order.

Section 2. __________________________ then appointed __________________________ the __________________________ of the Agency, the hearing officer of the Agency, to record the minutes of the hearing.

Section 3. The hearing officer then described the proposed transfer of the real estate, the other financial assistance proposed by the Agency and the location and nature of the Facility as follows:

Park Ave Bay Shore LLC, a limited liability company organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Park Ave Bay Shore LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Company”), has applied to the Town of Islip Industrial Development Agency (the “Agency”), to enter into a transaction in which the Agency will assist in the acquisition of an approximately 1.607 acre parcel of land (Tax Map #0500-393.00-02.00-108.002) located at 61 and 57 Park Avenue, Bay Shore, New York 11706 (the “Land”), the construction of an approximately 118,612 square foot building thereon (the “Improvements”), and the acquisition and installation therein of certain equipment and personal property (the “Equipment”; and, together with the Land and the Improvements, the “Facility”), which Facility is to be leased by the Agency to the Company and is to be used by the Company as a mixed-use facility with approximately 90 residential apartments and approximately 1,000 square feet of commercial/retail space (the “Project”). The Facility will be initially owned, operated and/or managed by the Company.

The Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from mortgage recording taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes and abatement of real property taxes, consistent with the policies of the Agency.
Section 4. The hearing officer then opened the hearing for comments from the floor for or against the proposed transfer of real estate, the other financial assistance proposed by the Agency and the location and nature of the Facility. The following is a listing of the persons heard and a summary of their views:

Section 5. The hearing officer then asked if there were any further comments, and, there being none, the hearing was closed at __________.
STATE OF NEW YORK   )
                 : SS.:
COUNTY OF SUFFOLK  )

I, the undersigned Assistant Secretary of the Town of Islip Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the foregoing copy of the minutes of a public hearing held by the Town of Islip Industrial Development Agency (the "Agency") on the ___ day of ______ 201_, at _______ ___.m., local time, at _______________________, New York, with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of the minutes in connection with such matter.

IN WITNESS WHEREOF, I have hereunto set my hand as of ____________, 201_.

__________________________________________
Assistant Secretary
EXHIBIT C

Requisite Materials
EXHIBIT C-1

Benefits Analysis for Town of Islip Industrial Development Agency – North District Lofts
North District Lofts
57 Park Avenue, Hamlet of Bay Shore, Town of Islip, Suffolk County, New York
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Introduction

This report has been prepared at the request of Park Avenue Bay Shore, LLC (the "Applicant"), 5 Shore Lane, Bay Shore, New York 11705. The Applicant is seeking Town of Islip Industrial Development Agency (IDA) benefits associated with the Applicant’s proposed redevelopment (the “Project” or “North District Lofts”) of vacant land located at 57 Park Avenue in the hamlet of Bay Shore, Town of Islip, Suffolk County (the “subject property”) (see Figure 1). The Project involves the construction of a five-story mixed-use building with ground level parking, which will be screened from public view with the use of architectural elements. The five-story building would contain 90 rental apartment units, amenities (e.g., fitness facility, rooftop deck, organic garden, interior lounges, storage areas) and approximately 1,000 square feet (sf) of retail space.

The 1.61±-acre subject property is currently comprised of one tax parcel, known on the Suffolk County Tax Map as District 500 – Section 393 – Block 2 – Lot 108.2, and is situated along the east side of Park Avenue, south of Union Boulevard. The subject property also contains frontage along the west side of Fourth Avenue. The properties comprising the subject property formerly housed predominantly vacant substandard buildings that exhibited structural deficiencies, exterior blight and dangerous conditions [57 Park Avenue] and office space and non-code-compliant residential apartments that also demonstrated structural deficiencies and dangerous conditions [61 Park Avenue]. The structural deficiencies and dangerous conditions exceeded the feasibility of refurbishment and, therefore, the buildings needed to be demolished. As part of the demolition there was environmental clean-up associated with this site and with the buildings.
Upon implementation of the Project, the five-story mixed-use building would be situated along the western and southern property lines in an L-shaped configuration. The building will total 118,612± sf with internal parking and 1,000 sf of retail space on the ground floor and 90 rental apartments on the second-through-fifth floors. The apartments would include 20 studio units, 48 one-bedroom units and 22 two-bedroom units. As required in a Declaration of Covenants and Restrictions, dated April 20, 2016 (see Appendix A), at least 20 percent (18) of the apartment units will be set aside as affordable units subject to the Town of Islip requirements. Access to the subject property would be provided via one curb cut on Park Avenue and one curb cut on Fourth Avenue.

On March 31, 2016, the Town Board of the Town of Islip granted a change of zone for the subject property from Business District to Downtown Development District. Development of the subject property as described above is consistent with the Declaration of Covenants and Restrictions (C&Rs), as discussed below (see Appendix A). The Project must include at least 20 percent affordable units, subject to Town of Islip requirements. There will be a mix of such studio, one-bedroom and two-bedroom affordable apartments within the building. The property owner or management company must enter into a contract with a not-for-profit HUD-certified Housing Counseling Agency to review and certify compliance with the above-referenced provisions.

Other required benefits included in the C&Rs are as follows:

- Applicant will keep the property neat, clean and free of litter, debris and graffiti.
- All mechanical equipment will be screened from public view and for sound attenuation purposes.
- Street trees will be installed and maintained 20 feet on center along all road frontages.
- The sidewalks adjacent to Park Avenue shall be of superior design and width.
- The applicant/owner will provide improvements to the Union Boulevard frontage of the train station parking lots between Parking Avenue and Fourth Avenue, including irrigation of the street frontages and of Bay Shore Memorial Park, corner fence treatment including brick pillars and wrought iron fence in between, and the installation of brick paver treatment at each corner.
- Innovative resiliency measures including a natural retention area on the south side of the building, non-point source pollution prevention including catch basin inserts to filter pollutants from stormwater runoff, and installation of porous pavement in portions of the subject property will be installed.
- All lighting will be positioned or shielded to illuminate only the subject parcels.

See Appendix A for the complete listing of the C&Rs required as part of the proposed North District Lofts development.

The total project cost estimated by the applicant is $22,165,000. This figure includes the land cost, on-site and off-site costs, construction costs for the building and parking garage, and soft costs.
The purpose of this report is to evaluate the Project with respect to the general guidelines and standards regarding public benefit for IDA approval of certain benefits (i.e., Sales Tax Exemption, Mortgage Recording Tax Exemption and Payment-in-lieu-of-Taxes (PILOT)). Specifically, the socioeconomic and community benefits and need for the Project, including economic activity during the construction phase and the purchasing power of Project residents, are evaluated.
1.1 Comprehensive Planning Documents

The Project's consistency with relevant comprehensive planning documents is summarized below.

Greater Bay Shore NY Rising Community Reconstruction Plan (2014)

The Greater Bay Shore NY Rising Community Reconstruction Program (the NYRCP Program) was completed in March 2014 as a community-driven planning initiative aimed at addressing future risks and increased resiliency within the Greater Bay Shore area. The NYRCP Program was launched as a result of the impact Hurricane Irene, Tropical Storm Lee, and Superstorm Sandy had on the 102 storm-impacted locations throughout New York State. The NYRCP Program outlines strategies and projects categorized by their Recovery Support Functions (RSF). RSF's are used to identify, coordinate, and ultimately deliver assistance to the Greater Bay Shore community from various sources of funding. Specifically, the “Housing” RSF notes,

The introduction of mixed-use development in areas where commercial uses co-exist with residential uses, as appropriate (first-floor retail with apartments above) should be further explored. This type of development has been increasing in Downtown Bay Shore and has had a positive impact. Further development of this type of housing would help to attain the two-fold purpose of increasing the housing supply outside of what is typically considered to be a flood-prone area and to promote a walkable and compact form of development (Section II, page 64).

Consistent with the “Housing” RSF, the Project aims to provide a mixed-use development outside of the flood zone, thereby promoting walkability in a compact form of development. This will be accomplished by constructing a new mixed-use building on an underutilized property, adjacent to downtown Bay Shore to attract new retail tenants and provide 90 residential rental apartments, including 18 affordable units. Specifically, the proposed mixed-use development is within walking distance of the Bay Shore Long Island Rail Road (LIRR) station (across the street), to the Bay Shore shopping and restaurant district and to Northwell Southside Hospital. It should be noted that the Town Board of the Town of Islip granted a change of zone for the subject property from Business District to Downtown Development District, to allow the construction of a mixed-use building.

The NYRCP Program also includes “Additional Resiliency Recommendations” (ARRs) in Table 29 of the document. Among these ARRs is a “Complete Streets” Resiliency Corridors project aimed at integrating “Green” and “Gray” infrastructure (natural and engineered stormwater management system) to holistically manage stormwater and reduce flooding. The Fourth Avenue/Maple Avenue corridor from the LIRR Station to the waterfront is identified as a potential improvement corridor in this ARR (see page 184). As described above, the Project includes innovative resiliency measures including a natural retention area on the south side of the building, non-point source pollution prevention including catch basin inserts to filter pollutants from
stormwater runoff, and the installation of porous pavement in portions of the subject property. Thus, the Project would help the Bay Shore community achieve its resiliency goals.

Town of Islip Comprehensive Plan (1979)

The Town of Islip Comprehensive Plan (Volume 7A, Bay Shore, the “1979 Comprehensive Plan”) was originally intended to guide the Town’s “decision-makers” in assuring the most appropriate future development for Bay Shore. The plan addressed local issues, including the decline of the downtown business district and the need for a diversification of the local economy. A program for revitalization was prepared, which included infrastructure development (parking, access roads, and sewers), storefront façade and streetscape improvements, expansion of opportunities to open up underutilized waterways to public access, and a program of zoning incentives to encourage the development of higher density housing and mixed uses.

The 1979 Comprehensive Plan provides a list of long-term objectives housing development to satisfy the needs of all age groups, lifestyles and income levels. This list includes, but is not limited to, the following:

- To offer a variety of housing types.
- To develop new housing densities which allow high levels of amenities.
- To encourage pedestrian access from residential areas to commercial and recreational areas (page 29).

The 1979 Comprehensive Plan recommends the highest housing densities north of Montauk Highway. The subject property is situated within Area 1 of the Bay Shore Planning Areas, where “new housing should be clustered into townhouse and garden apartment groupings with high-rise structures as focal points” (page 31). The proposed land use map for Area 1 designates the eastern portion of the subject property as “Service/Convenience” commercial with “Medium Density” residential for the western portion.

As there is a commercial component to the Project, the relevant commercial objectives provided in the 1979 Comprehensive Plan are as follows:

- To group commercial activities into walking configuration, encouraging a mixture of land uses.
- To develop non-commercial activities that will support businesses, add activity and provide a labor supply (page 67).

Consistent with the recommendations outlined in the 1979 Comprehensive Plan, the Project includes the redevelopment of an existing vacant lot (that formerly housed predominantly vacant substandard commercial buildings that exhibited structural deficiencies, exterior blight and dangerous conditions at 57 Park Avenue and office space and non-code-compliant residential apartments that also demonstrated structural deficiencies and dangerous conditions at 61 Park Avenue) with a mixed-
use rental apartment and retail building within an area contemplated for such
development. The construction of a new five-story building with improved
landscaping, drainage, and streetscape improvements along its frontage and the
adjacent LIRR station would attract new retail tenants and would increase customer
activity within the new commercial space. The Project also provides 90 new
residential rental apartments, thereby advancing the downtown development of a
compact, mixed-use configuration. The new rental apartments would also support
existing businesses, provide additional activity in Bay Shore, as well as offer a variety
of housing options and support pedestrian access to commercial uses on Main
Street, as encouraged by the 1979 Comprehensive Plan.

Town of Islip Comprehensive Plan Update (2011)

In 2011, the Town of Islip updated its 1979 Comprehensive Plan to address the
demographic changes that had occurred in the Town during the intervening years.
While the goals outlined in the 1979 Comprehensive Plan remain, the Town of Islip
Comprehensive Plan Update (2011) (Comprehensive Plan Update) aims to respond to
the recent and future challenges within the Town. The Comprehensive Plan Update
notes that while single-family homes continue to be the predominant housing
option in the Town, demographic trends have led to an increase in diversified
housing options. It is noted in the Comprehensive Plan Update that Bay Shore
averaged approximately 200 new residents per year between 2000 and 2010, or
roughly a 10 percent increase over the decade. The growth for the Town of Islip over
the same period was approximately 4 percent. Additionally, the Comprehensive Plan
Update notes that rental apartments only account for approximately 10.1 percent of
the overall housing stock in the Town of Islip. The Project responds to these trends
by providing a housing product — i.e., rental apartments, twenty percent of which will
be affordable — for which there is a well-established need, as documented in the
trend analysis in the Comprehensive Plan Update.

Suffolk County Comprehensive Master Plan 2035 (2015)

The Suffolk County Comprehensive Master Plan 2035: Framework for the Future
(Suffolk 2035 Plan), adopted by the Suffolk County Legislature on July 28, 2015,
represents the final part of a planning effort that was initiated in 2011 with the
publication of an inventory of data relating to demographics, the economy, and
quality of life in Suffolk County. The Suffolk 2035 Plan is guided by six key priorities:

1. **Build a 21st Century Transit Network to Provide More Transportation Choices to
   Improve Mobility, Access, and Safety**

2. **Providing Equitable, Affordable, Fair Housing**

3. **Enhance Economic Competitiveness and Capacity to Build an Innovative Economy**

4. **Support Vibrant Communities**

5. **Streamline Government, Coordinate Policies, and Leverage Investment**
6. Protect the Environment and Enhance Our Human Capital

It is noted in the Suffolk 2035 Plan that demographic changes in Suffolk County over the past two decades have created a housing demand that includes a higher proportion of smaller, multi-family family units, a higher proportion of rental units, and more affordable units. Consistent with recommendations outlined in the Suffolk 2035 Plan, the Project includes the redevelopment of vacant lot to provide 90 residential rental apartments in a range of sizes (i.e., 20 studio units, 48 one-bedroom units and 22 two-bedroom units), including 18 affordable units.

The Suffolk 2035 Plan also notes that while private sector employment has increased throughout the County, not all sectors of employment have experienced the same growth. Specifically, the Suffolk 2035 Plan states that “the County is losing high paying jobs and replacing them with lower skill and wage jobs”. As described in Anticipated Benefits of the Project, below, implementation of the Project would create a total of approximately 14 jobs during operations and support approximately 158 jobs during construction. Further, the Project would generate approximately $9.2 million in annual income during construction, with an average salary of approximately $58,000, and approximately $461,000 in annual income during operations, with an average salary of approximately $32,000, according to the IMPLAN analysis. As the subject property is currently vacant, all jobs would be new to the area. As indicated in Anticipated Benefits of the Project, the average operational salary generated by implementation of the Project would be approximately equal the Town of Islip’s per capita income.

In addition, the proposed mixed-use building is within walking distance of the Bay Shore LIRR station, which expands the transportation choices of the future residents of the North District Lofts. Further, the innovative stormwater design included in this development assists in achieving the goals related to environmental protection. Finally, the Project will broaden the revitalization of Bay Shore into a vibrant downtown.

1.2 Rental Housing Trends and Data

The current need for rental housing on Long Island is well documented. As set forth in the 1979 Comprehensive Plan, “[n]ew multi-family housing should contain predominantly one and two-bedroom units to relate to the housing needs of young singles, starter families, mature couples and senior citizens.” (page 31). The Project is consistent with this recommendation, by providing 20 studios, 48 one-bedroom and 22 two-bedroom rental apartments, including 18 affordable units.

A 2013 report by the Regional Planning Association (RPA), Long Island’s Rental Housing Crisis (LI Rental Housing),¹ points to a number of trends in the Long Island housing market, noting that “[t]he shortage of affordable rental homes is already straining Long Island’s economy, and will make it much harder to compete for jobs.

in the years ahead* (page 3). The key trends and statistics mentioned in L1 Rental Housing include the following:

- Long Island’s 4.3% rental vacancy rate means that there are fewer available rental homes than in any other suburban area in the New York region.
- 56% of renters pay more than 30% of their income for housing.
- 64% of Long Island renters cannot afford a typical two-bedroom apartment.
- 55% of 20-to-34 year-olds live with their parents or older relatives.
- Over a quarter of all the rental homes on Long Island are concentrated in 10 communities.
- Every 100 new units of rental housing generated 32 local jobs, $2.3 million in income and $395,000 in tax revenue annually.
- Actions should be taken at all levels of government to create new homes that both meet community needs and relieve the rental housing crisis.

With respect to supply, rental options are not plentiful on Long Island. The 2015 American Community Survey shows that only 20 percent of occupied housing units on Long Island are rentals.² For the most part, Suffolk County ranks far behind neighboring metropolitan area counties with respect to the percentage of occupied rental housing units, as shown in Table 1 below. In fact, only Nassau County and the more rural Putnam County have a lower percentage of rental units.

Table 1  Rental Housing Units as Percentage of Total Occupied Housing Units

<table>
<thead>
<tr>
<th>County</th>
<th>Percentage of Rental Units</th>
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<tbody>
<tr>
<td>Suffolk County, NY</td>
<td>20.5</td>
</tr>
<tr>
<td>Nassau County, NY</td>
<td>19.7</td>
</tr>
<tr>
<td>Hudson County, NJ</td>
<td>68.7</td>
</tr>
<tr>
<td>Essex County, NJ</td>
<td>55.5</td>
</tr>
<tr>
<td>Westchester County, NY</td>
<td>38.5</td>
</tr>
<tr>
<td>New Haven County, CT</td>
<td>37.2</td>
</tr>
<tr>
<td>Bergen County, NJ</td>
<td>35.2</td>
</tr>
<tr>
<td>Fairfield County, CT</td>
<td>31.7</td>
</tr>
<tr>
<td>Dutchess County, NY</td>
<td>30.9</td>
</tr>
<tr>
<td>Rockland County, NY</td>
<td>31.1</td>
</tr>
<tr>
<td>Putnam County, NY</td>
<td>18.0</td>
</tr>
</tbody>
</table>


Further, the demand for rentals is increasing. Since its peak at 10.6 percent in 2010, the rental vacancy rate has fallen across the United States to an average of 7.5 in the third quarter of 2017,³ indicating that, nationally, the demand for rental units is

increasing in relation to supply. The 2015 American Community Survey five-year estimates show that the rental vacancy rate in Suffolk County was 4.6 percent, and the rental vacancy rate in the Town of Islip was 4.0 percent. If the vacancy rate in this area has followed the national trend, it is likely that there are even fewer available rental units today; and thus, it is anticipated that the Project will provide a much-needed housing type to the area.

1.3 Comparable Rental Developments

The Suffolk County Department of Economic Development and Planning (SCDEP) gathers information on apartment complexes with 10 or more units either existing or currently under construction in the County. According to SCDEP data, in the Town of Islip, there are approximately 112 apartment complexes with a total of 10,965 units (including those that were under construction at the time of publication). Thirty-nine of these apartment complexes, with a total of 1,903 units, are in the Bay Shore area. Of the 39 apartment complexes in the Bay Shore area, 31 are non-age-restricted (1,290 total units) and three are non-age-restricted with an element of affordable housing (33 total units). These 34 complexes (i.e., 33 non-age-restricted and three non-age-restricted affordable) are expected to serve a similar population as the Project. In providing 90 non-age-restricted rental apartments, including 18 affordable units, the Project will increase Bay Shore’s non-age-restricted rental housing stock by approximately 7 percent.

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2

Anticipated Benefits of the Project

2.1 IDA Evaluation Criteria

The IDA evaluates projects seeking benefits pursuant to the guidelines in its Uniform Tax Exemption Policy (UTEPA). The Project is eligible to apply for a Real Property Tax Abatement pursuant to Section 1A.7 of the UTEPA as it is a mixed-use project in a Downtown Development District. As the Project is seeking a Sales Tax Exemption, Mortgage Recording Tax Exemption, and a PILOT Agreement from the IDA, it is subject to the following guidelines to determine eligibility for such relief (Attachment 1):

1. Economy: Local and regional economic conditions at the time of application.

The Town of Islip has long considered revitalization of the downtown Bay Shore business district and the need to diversify and strengthen the local economy a planning priority, dating back to the original 1979 Comprehensive Plan. Since the 1979 Comprehensive Plan, the Town has seen some progress with a number of mixed-use developments being built over the years; however, this initiative is ongoing. The Project will contribute to the economic vitality in the Bay Shore downtown area by providing new opportunities for businesses on the ground level of the proposed mixed-use building. The 90 rental apartments on the second through fifth floors will provide an expanded customer base for local downtown

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merchants and continue the promotion of a more walkable downtown. The Project would also help to create a more viable and vital commercial corridor adjacent to the apartments, which would help grow the economy of the downtown district.

It is estimated that the median household income in Bay Shore is $70,229, as compared to a median household income in Suffolk County estimated at $88,663.\(^6\) With a median household income in Bay Shore that is only about 75 percent of the median household income in Suffolk County, indicating a prevalence of lower-paying jobs for residents in Bay Shore, there is a need for more affordable housing options to serve local residents. The Project would help serve this need by providing 18 affordable units.

2. **Jobs:** The extent to which the project will directly create or retain permanent private sector jobs as well as “temporary” jobs during the construction period. In addition, the level of secondary “multiplier” jobs that will be created or retained as a result of the project.

VHB conducted an analysis of the jobs projected to be generated in the zip codes comprising the Town of Islip by the Project using the IMPLAN software tool. This analysis was conducted for both construction period and the operation of the Project. For the construction period, the inputs to the tool included the anticipated costs associated with construction of the residential ($16,508,250\(\Delta\)) and retail ($166,750\(\Delta\)) portions of the Project with a total construction cost of $16,675,000.\(^7\) Construction of the Project is anticipated to start in spring 2018 and finish in fall 2019, for an approximately 18-month period. Based on these inputs, the Project is estimated to generate approximately 158 jobs during the construction phase. These jobs are broken down as follows:

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\(^7\) Construction costs are based on information provided by the Applicant in correspondence dated November 30, 2017. These costs do include land costs and soft costs.
Table 2  Employment Impact (Construction Phase)  

<table>
<thead>
<tr>
<th>Impact Type</th>
<th>Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct Effect</td>
<td>91.3</td>
</tr>
<tr>
<td>Indirect Effect</td>
<td>36.0</td>
</tr>
<tr>
<td>Induced Effect</td>
<td>30.7</td>
</tr>
<tr>
<td>Total Effect</td>
<td>158.1</td>
</tr>
</tbody>
</table>

The analysis of the Project upon completion of construction (i.e., operational phase) is based upon the assumption that the commercial component of the Project would directly generate three jobs and projections that net operating income (NOI) of the project (i.e., gross operating income less operating expenses) would be approximately $1,063,965. Using the NOI as the input for the IMPLAN model produces a conservative estimate of economic impacts that accounts for various maintenance expenses.

The results of the employment analysis for the operational phase of the Project are as follows:

Table 3  Employment Impact (Operational Phase)  

<table>
<thead>
<tr>
<th>Impact Type</th>
<th>Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct Effect</td>
<td>10.3</td>
</tr>
<tr>
<td>Indirect Effect</td>
<td>2.7</td>
</tr>
<tr>
<td>Induced Effect</td>
<td>1.6</td>
</tr>
<tr>
<td>Total Effect</td>
<td>14.5</td>
</tr>
</tbody>
</table>

It is estimated that the Project has the potential to create a total of approximately 14 jobs during operations and support approximately 158 jobs during construction.

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4 IMPLAN does not provide analytics for mixed-use developments. Accordingly, Sector 60 - Construction of new multifamily residential structures and Sector 57 - Construction of new commercial structures, including form structure were analyzed, and a sum is provided.

9 Direct Effect is a series of (or single) production changes or expenditures made by producers/consumers as a result of an activity or policy. These initial changes are determined by an analyst to be a result of this activity or policy (i.e., construction jobs directly related to on-site activity).

10 Indirect Effect is the impact of local industries buying goods and services from other local industries (i.e., jobs created from construction-related spending).

11 Induced Effect is the response by an economy to an initial change (direct effect) that occurs through re-spending of income by a component of value added. Money is recirculated through the household spending patterns causing further local economic activity (i.e., jobs created through household spending of income from direct jobs).


13 IMPLAN does not provide analytics for mixed-use developments. Accordingly, Sector 405 - Retail (General merchandise stores) and Sector 440 - Real estate were analyzed, and a sum is provided.
The project site is currently vacant; therefore, all operational jobs would be new to the Town of Islip.

3. **Project Cost/Payroll**: Level of direct annual payroll that results from the project as well as secondary "multiplier" payroll and payroll during the initial construction period.

The IMPLAN analysis also includes projections of the impact on income from jobs that are anticipated to be created by the Project. This includes income from direct, indirect and induced jobs. The results of this analysis, for both the construction and operational phases of the Project are as follows:

**Table 4  Labor Income for Jobs Generated During Construction**

<table>
<thead>
<tr>
<th>Impact Type</th>
<th>Employment</th>
<th>Labor Income</th>
<th>Average Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct Effect</td>
<td>93.1</td>
<td>$5,640,091</td>
<td>$61,775</td>
</tr>
<tr>
<td>Indirect Effect</td>
<td>35.0</td>
<td>$1,976,282</td>
<td>$54,897</td>
</tr>
<tr>
<td>Induced Effect</td>
<td>30.7</td>
<td>$1,538,808</td>
<td>$50,124</td>
</tr>
<tr>
<td>Total Effect</td>
<td>158.1</td>
<td>$9,155,181</td>
<td>$57,908</td>
</tr>
</tbody>
</table>

**Table 5  Labor Income for Jobs Generated During Operation**

<table>
<thead>
<tr>
<th>Impact Type</th>
<th>Employment</th>
<th>Labor Income</th>
<th>Average Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct Effect</td>
<td>10.3</td>
<td>$252,001</td>
<td>$24,466</td>
</tr>
<tr>
<td>Indirect Effect</td>
<td>2.7</td>
<td>$130,497</td>
<td>$48,332</td>
</tr>
<tr>
<td>Induced Effect</td>
<td>1.6</td>
<td>$78,402</td>
<td>$49,001</td>
</tr>
<tr>
<td>Total Effect</td>
<td>14.5</td>
<td>$460,899</td>
<td>$31,786</td>
</tr>
</tbody>
</table>

As demonstrated in Table 4 and Table 5 above, the Project would generate approximately $9.2 million in labor (payroll) income for all jobs (direct, indirect and induced) during construction, with an average salary of approximately $58,000, according to the IMPLAN analysis. During Project operations, the Project would generate approximately $461,000 in labor (payroll) income for all jobs (direct, indirect and induced), with an average salary of approximately $32,000, according to the IMPLAN analysis.

As the subject property is currently vacant, the Project would generate approximately $461,000 in new payroll income during Project operations. This increase in income related to Project operations, as well as the $9.2 million in payroll income to be generated during Project construction, would be entirely new to the Town of Islip. Data from the American Community Survey (2011-2015 five-year

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14 IMPLAN does not provide analytics for mixed-use developments. Accordingly, Sector 60 – Construction of new multifamily residential structures and Sector 57 – Construction of new commercial structures, including farm structure were analyzed, and a sum is provided.

15 IMPLAN does not provide analytics for mixed-use developments. Accordingly, Sector 405 – Retail (General merchandise stores) and Sector 410 – Real estate were analyzed, and a sum is provided.
estimates) indicate that the per capita income in the Town of Islip is approximately $32,425. Thus, salaries generated by the Project operations would be approximately equal to the Town of Islip’s per capita income.

The new residents of the 90 proposed housing units would also generate economic benefits to the Town through household spending. Based on the estimated median disposable household income of residents in the Town of Islip of $64,052, it is estimated that aggregate annual household spending from the Project will total approximately $5.8 million, a portion of which would be spent locally.

4. Project Purpose: Type of industrial or commercial activity proposed for the facility.

As part of the Project, approximately 1,000 sf on the ground level would be dedicated commercial space (with uses permitted within the Downtown Development District) and would attract retail tenants to the subject building. Furthermore, the proposed redevelopment of the site may serve to encourage similar action at other underutilized commercial properties.

5. Site Alternatives: Likelihood that the project will locate elsewhere resulting in subsequent real economic losses for retention projects and possible failure to realize future economic benefits for attraction projects.

The Project aims to redevelop vacant land to attract commercial and residential development within downtown Bay Shore. Revitalization of the land will attract commercial and residential tenants who would otherwise locate elsewhere. As previously noted, implementation of the Project would generate approximately $8.2 million in payroll income during construction and $461,000 in payroll income during operations. Without significant investment in the subject property, income that would have been generated as a result of implementation of the Project would be diverted elsewhere, potentially outside of the Town of Islip.

Additionally, redevelopment of the existing vacant land would provide additional apartment space needed in the Greater Bay Shore area and the Town of Islip. By providing additional rental opportunities (which are limited in the area), the Project will aid the Town of Islip and the region in allowing middle-class residents to stay, rather than move away, thus maintaining Project-related economic benefits of residential spending, estimated at approximately $5.8 million.

6. Project Location: Nature of the property before the project (vacant land, vacant buildings, distressed community, Former Empire Zone, blighted property, downtown corridor).

The 1.61-acre subject property is comprised of one tax parcel, identified on the Suffolk County Tax Map as District 500 – Section 393 – Block 2 – Lot 108.2, which is

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15 Median disposable income was obtained from ESRI Business Analyst. Disposable income is after-tax household income. Disposable income forecasts are based on the Current Population Survey, U.S. Census Bureau.

16 Such commercial uses include restaurant, bar, home, or café, retail establishments, service establishments, including professional, personal and repair services, and offices, amongst others, according to Article XIII A §68-180.4 of the Town Code.
currently an undeveloped. Prior to its current vacant status, as previously indicated, the properties comprising the subject property formerly housed predominantly vacant substandard buildings that exhibited structural deficiencies, exterior blight and dangerous conditions [57 Park Avenue] and office space and non-code-compliant residential apartments that also demonstrated structural deficiencies and dangerous conditions [61 Park Avenue]. The structural deficiencies and dangerous conditions exceeded the feasibility of refurbishment and, therefore, the buildings needed to be demolished. As part of the demolition there was environmental clean-up associated with this site and with the buildings.

The Project will upgrade the subject property as it will convert existing vacant land into a five-story mixed-use building with both commercial and residential uses, thereby advancing the ongoing revitalization efforts of the Bay Shore downtown corridor through the productive redevelopment of an underutilized property, consistent with this IDA evaluation criterion. As discussed earlier, the Town Board of the Town of Islip granted a change of zone for subject property from Residential Redevelopment District to Downtown Development District, to allow the construction of a mixed-use building on March 31, 2016.

7. Project Benefits: Amount of private sector investment as a result of the project and the level of additional revenue for local taxing jurisdictions.

As previously noted, implementation of the Project would generate approximately $9.2 million in private sector payroll income during construction and an additional $461,000 in private sector payroll income during operations.

Currently, the entirety of the 1.61±-acre subject property is vacant. Without redevelopment, the subject property would continue to be underutilized. As such, the proposed mixed-use building has been designed to attract new commercial and residential tenants that would otherwise locate elsewhere. The five-story building would be an attractive addition to the downtown Bay Shore area, and new landscaping, streetscape and drainage improvements, which the applicant is substantially investing in, would enhance the area in the immediate vicinity of the subject property. Further, the structural design and the architectural details of the building (including the required enclosed parking on the first floor) are a large investment and cost contributor to the project.

Additionally, the redevelopment of the subject property with 90 residential rental apartments would provide a much-needed housing option for a portion of the population that would otherwise relocate elsewhere; these new residents in downtown Bay Shore would provide additional private sector economic stimulus to downtown businesses. As noted above, anticipated aggregate household spending from the Project is approximately $5.8 million, a portion of which would be spent locally.

Finally, the applicant estimates the total project costs at $22,485,000 (including soft costs, land costs, site preparation costs and construction costs), which is a significant investment in the Bay Shore community and Town of Islip.
8. Project Costs: Impact of the project and the proposed abatements/exemption on local taxing jurisdictions and extent to which will require additional services from local government entities.

According to factors published in the Rutgers University, Center for Urban Policy Research, *Residential Demographic Multipliers – Estimates of the Occupants of New Housing* (2006), it is anticipated that the Project, with 20 studios, 48 one-bedroom and 22 two-bedroom units, would generate approximately nine school-aged children who would attend public school.18

The subject property is located within the Bay Shore Union Free School District (UFSD). Based on publicly-available resources from the New York State Education Department (NYSED), the total district enrollment for the Bay Shore UFSD was 6,020 students for the 2017-2018 school year. The total adopted budget for the 2017-2018 school year was $151,988,797 (of which approximately 68.6 percent, or $104,247,009 was from the local property tax levy).19 The total budgeted expenditure per pupil for the 2017-2018 school year was approximately $25,247. The total budgeted cost per student based on the local property tax levy was approximately $17,317. While the average total per-pupil cost is a useful metric for certain tasks, such as overall district budgeting, it is not appropriate for evaluating the marginal cost of educating a new student. This is because the average cost includes administrative and capital expenditures that are not affected by the introduction of new students (e.g., superintendent salary, debt service, etc.). Instructional expenditures provide a more accurate assessment of the cost of educating additional students generated by new residences. The instructional expenditure per general education student20 for the Bay Shore UFSD was $13,115 for the 2014-2015 school year (the most recent year for which such data are available).21 However, as above, only a portion of this cost is currently paid for from the local property tax levy. The portion of the program costs paid by the local real estate property tax (based on a 68.6 percent ratio) is estimated to be approximately $8,995 per pupil.

As the subject property does not currently contain any residential uses, no school-aged children reside at the site. Upon implementation of the Project, the second through fifth floors of the proposed building would contain rental apartments, which would result in a permanent population on the site of approximately 231 people.22

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18 Rutgers University, Center for Urban Policy Research, *Residential Demographic Multipliers – Estimates of the Occupants of New Housing* (2006). Factors for all public school children: School-Age Children in Public School (PSAC): 5+ Units Rent, 1 Bedroom, Values > $1,000 = 0.07 PSAC per unit. 5+ Units Rent, 2 Bedrooms, Values > $1,100 = 0.16 PSAC per unit. It is noted that as the Rutgers University study does not include a factor for studio units, the factor for 1 Bedroom units was not.


20 Note that this figure reflects instructional expenditures per general education student in the 2014-2015 school year. Expenditures per special education student were $17,360 during the same school year. In the 2014-2015 school year, 13.2 percent of students in the Bay Shore UFSD were classified with disabilities, and qualified for special education services.


22 American Community Survey 2011-2015, Bay Shore, NY – persons per household in renter-occupied units (2.57%).
(including public school-aged children). The addition of approximately nine school-age children would represent an approximate 0.15 percent increase over the 2017-2018 public school enrollment of 6,020. Added to the 2017-2018 enrollment, the addition of nine school-age children would result in a total enrollment of 6,029.

Based on the 2014-2015 estimated instructional expenditure per general education student for the Bay Shore UFSD of $13,115, the Project’s total impact on the Bay Shore UFSD is projected to be approximately $118,035. Based on the portion of the program costs paid by the local real estate property tax of approximately $8,995 per pupil, the impact would be approximately $80,955. Even with the proposed PILOT, the Project would generate some amount of revenue for the Bay Shore UFSD, which would at least partially offset these costs, and potentially would even exceed these costs and result in a net financial benefit. Over time, as the PILOT is phased out and there is a transition to a full property tax assessment, it is expected that a net financial benefit will result for the School District, particularly considering the large commercial component of the Project.
Conclusions

For various reasons discussed above, there currently is a high demand for rental housing, including affordable rental housing, in the Town of Islip and the Greater Bay Shore area. As demonstrated by Census data, rental options are not plentiful on Long Island. In fact, the availability of rental housing on Long Island lags behind other metropolitan counties, even as demographic shifts have led to a higher demand for diversified housing options.

The Project would be consistent with identified goals, objectives and priorities in the NYRCP Program, the 1979 Comprehensive Plan, the Comprehensive Plan Update, and the Suffolk 2035 Plan. Even as far back as the 1979 Comprehensive Plan, the need for additional rental housing and mixed-use developments in existing commercial and downtown areas has been advocated. The Town of Islip has advanced this goal by updating its Zoning Code to encourage the creation of mixed-use developments, of the type which will be provided by the Project. As previously indicated, the Town Board of the Town of Islip has granted a change of zone for subject property from Business District to Downtown Development District, to allow the construction of a mixed-use building. Moreover, the Project will add a type of housing that is in high demand throughout the Town of Islip and Long Island, as indicated by the low vacancy rates identified in Census data. By providing 90 residential rental units, including 18 affordable units, the Project will cater to residents of varying income levels and varying family sizes, and will enable middle class residents within the Greater Bay Shore area and the Town of Islip to remain close to home, rather than leave the region.
An IMPLAN analysis was undertaken to evaluate the anticipated employment and economic benefits of the Project during construction and operation phases. This analysis indicates that the Project will generate a total of approximately 158 jobs (including direct, indirect and induced jobs) during the 18-month construction period, with a total labor (payroll) income of approximately $9.2 million. Further, it is estimated that the operational phase of the Project upon completion of construction would potentially generate a total of approximately 14 jobs (including direct, indirect and induced jobs), with a total labor (payroll) income of approximately $461,000.

Additionally, household spending by Project residents is estimated at approximately $5.8 million, a portion of which would be spent locally.

In addition, the applicant estimates the total project costs at $22,485,000, which is a significant investment in the Bay Shore community and Town of Islip.

Based on the analysis presented in this report, the Project is consistent with the guidelines and criteria of the IDA UTEP, and would result in public benefits related to affordable/diversified housing and employment, downtown revitalization, and would also result in direct and indirect economic benefits to the Bay Shore downtown and the Town of Islip.
DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION, made and dated the 9th day of April 2016 by PARK AVENUE BAY SHORE, LLC (a corporation duly created, organized and existing under and by virtue of the laws of the State of New York), and having its principal place of business at 2 Shore Lane, Bay Shore, NY 11706, hereinafter referred to as the Declarant:

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of the following described real property:

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND SITUATE, LYING AND BEING AT BAY SHORE, TOWN OF ISLIP, COUNTY OF SUFFOLK AND STATE OF NEW YORK BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING at a point on the easterly side of Park Avenue distant 144.64 feet southerly from the corner formed by the intersection of the easterly side of Park Avenue with the southerly side of Union Boulevard (GR 90);

THENCE North 50° 27' 00" East 105.86 feet;

THENCE South 53° 02' 00" East 42.27 feet;

THENCE North 50° 27' 00" East 63.00 feet;

THENCE South 24° 16' 00" East 35.55 feet;

THENCE North 66° 01' 00" East 40.10 feet;

THENCE South 20° 06' 00" East 34.52 feet;

THENCE North 59° 10' 57" East 161.64 feet to the westerly side of Fourth Avenue (4th Avenue / Maple Avenue);

THENCE along said westerly side of Fourth Avenue (4th Avenue / Maple Avenue) South 45° 40' 00" East 75.72 feet;

THENCE South 46° 20' 00" West 97.34 feet;

THENCE South 15° 38' 00" East 80.39 feet;

THENCE South 50° 27' 00" West 222.05 feet to the easterly side of Park Avenue;

THENCE along said easterly side of Park Avenue North 39° 33' 00" West 502.00 feet to the POINT OF BEGINNING.

WHEREAS, a public hearing was held on the 31st day of March 2016, by the Town Board of the Town of Islip, a municipal corporation of and in the County of Suffolk, State of New York, upon the application of the Declarant, made pursuant to Sections 264 and 265 of the Town Law for a change of zone from Business District to Downtown Development District;

and,

WHEREAS, at the conclusion of the said hearing and after due deliberation having been had thereon, the said zoning change was approved by said Town Board;

and,

WHEREAS, the Declarant deems it advisable and for the best interest of itself and for the Town of Islip as a whole that certain covenants and restrictions be placed upon the said real property with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the said Town of Islip.

Tax Map Number: 0300-393.00-02.00-997.000, 098.000, 099.002 and 108.001
NOW THEREFORE, in consideration of the premises, the Declarant declares as follows:

1. A Change of zone from Business District to Downtown Development District is deemed granted at part of this application.

2. The use of the subject property shall be limited to a mixed use building having no more than 90 units, to be further delineated as follows:
   a. 20 studio units.
   b. 48 one bedroom units.
   c. 22 two bedroom units.

3. At least 20% (18) of the dwelling units shall be set aside as affordable units subject to the Town of Islip requirements. There shall be a mix of studio, one bedroom and two bedroom affordable units equal to the mix of apartments within the building. The property owner or management company shall enter into a contract with a not-for-profit HUD Certified Housing Counseling Agency to review and certify compliance with the above-provisions. This contract must be provided prior to issuance of rental permit(s) and upon request to the Town of Islip Planning Department.

4. The subject parcel shall be kept neat, clean, groomed and litter free. Any proposed garbage dumpster shall be located at the direction of the Town Engineer and shall be enclosed in compliance with the Subdivision and Land Development Regulations. Dumpster shall be emptied on a regular basis to prevent overflow. The subject site shall be maintained in a neat, clean, and litter-free condition.

5. Declarant/owner shall provide regular solid waste collection services to residents of the apartments. Said collection services shall include separation of solid waste into recyclable components, including but not limited to newspapers, corrugated cardboard, ferrous metal, aluminum beverage containers, plastic beverage containers and glass. As part of this requirement, Declarant/owner shall provide designated containers for recyclable materials. Said containers shall be regulated in the same manner as garbage dumpsters, including regular servicing and enclosure within a decorative or split faced concrete block enclosure with opaque gates.

6. Prior to the issuance of any building permits or Certificates of Occupancy, there shall be submitted to the Town of Islip Planning Department for review and subject to approval the following items. The approved site plan shall supersede this plan for the purposes of regulating the subject property.

   a. Exterior architectural drawings of all proposed buildings. The Planning Department shall review said drawings for overall design, color, materials, and exterior mechanical equipment. The submitted architectural drawings shall be in substantial conformance to the plan(s) prepared by Busch Associates and which is dated 9/15/15. Said plan shall also show the following design elements:
      i. All exterior mechanical equipment shall be screened from public view and for sound attenuation purposes.
      ii. The roof top outdoor common space shall maintain a planted area on the south and west facades of the building. The design of this area shall be subject to the review and approval of the Planning Commissioner.
      iii. Any balconies facing Park Avenue shall have a maximum depth of 18”. Outdoor storage and/or display of any items shall be prohibited.

   b. A landscaping plan indicating in detail the proposed landscaping treatment in accordance with the Subdivision and Land Development Regulations. Said landscaping shall be designed to the satisfaction of the Planning Board, or its designee. The submitted landscape plans shall be in substantial conformance to the plans(s) prepared by Busch Associates and which is dated 9/15/15 and shall include the following plantings/design elements:
      i. Street trees shall be installed and maintained 20’ on center along all road frontages.

Tax Map Numbers: 0500-393.00-02.00-097.000, 098.000, 099.002 and 103.001
ii. An organic garden area shall be provided for residents of the building on site.

iii. A natural retention area, such as a vegetated swales or bioretention cells/raingardens, shall be required along the south side of the building.

iv. Overall and front yard landscaping relaxations shall be granted as part of this application.

v. All plantings shall be maintained to the satisfaction of the Planning Board and all plant material shall be kept in a healthy, maintained condition. The subject property shall also be kept free of litter, graffiti and debris at all times. The Planning Board shall be solely responsible for the determination regarding adequate maintenance and litter clean up. The Declarant/owner shall be solely responsible for the cost of the maintenance and litter clean up. In the event the Declarant/owner fails to maintain the landscaping or clean up litter and debris as so directed, the Town of Islip also reserves the right to enter onto the subject parcel and complete the required maintenance and assess all costs associated with same to the Declarant/owner's next tax bill.

c. A site plan showing the improvements specified in the Subdivision and Land Development Regulations including but not limited to: building locations, parking, curbs, sidewalks, curb cuts, landscaping, and drainage. The submitted site plan shall be in substantial conformance to the plan(s) prepared by Busch Associates and which is dated 7/10/15. Said plan shall also include the following elements:

i. A parking relaxation shall be granted as part of this application. A minimum of 125 paved spaces shall be provided on site, unless otherwise approved by the Town Engineer during site plan review.

ii. The sidewalk adjacent to Park Avenue shall be of superior design and width.

iii. Permeable/porous pavement surfaces shall be utilized in the design of the site.

iv. All storm water drainage shall be contained on-site in accordance with the current Subdivision and Land Development Regulations. In addition, Declarant/owner agrees to incorporate non-point source pollution mitigation into the overall drainage plan by incorporating manufactured treatment devices, i.e. catch basin inserts designed to filter hydrocarbons and other pollutants from storm water runoff.

The Planning Board reserves the right to modify any site plan requirements with the consent of the Declarant/owner after due public hearing. The Commissioner of Planning is hereby authorized to waive the requirement for such public hearing if any future site plan modification is reasonable, is evident within the documentation submitted as part of this application, and is within the spirit and intent of this grant.

7. Declarant/owner agrees to meet all Suffolk County requirements with regard to sanitary waste.

8. Prior to the issuance of a building permit, the declarant/owner agrees to consolidate all parcels of the subject property into a single Suffolk County Tax Map parcel.

9. Declarant/owner agrees to submit a plan showing improvements to the Union Boulevard frontage of the main station parking lot between Park Avenue and 4th Avenue. Said plan shall include the following improvements: Irrigation of the street frontages and Bay Shore Memorial Park, corner fence treatment including brick pillars and wrought iron fence in between, and installation of brick paver treatment at each corner. Said improvements and plan shall be subject to the review and approval of the Town of Islip Department of Planning and Department of Public Works.

10. All lighting shall be positioned or shielded so as to illuminate only the subject parcel. The Planning Board reserves the right to further limit or shield lighting fixtures if it is determined that light is not being contained on the subject property. The Planning Board reserves the sole responsibility of determining if lighting is properly contained on the subject property.

Tax Map Number: 0500-393.00-02.00-097.000, 098.000, 099.002 and 108.001
11. Prior to the issuance of any sign permit, all exterior signs shall be subject to review and approval by the Town of Islip Planning Department. The Planning Department shall review the signs for design compatibility, color, materials, height, and size.

12. Except as provided herein, Declarant/owner agrees to comply in all respects with the Subdivision and Land Development Regulations and the Islip Town Code.

13. All required permits, plan submittals, and physical improvements described herein shall be completed within 18 months of the date of the Town Board resolution approving this application. Declarant/owner further agrees to permanently maintain all improvements and landscaping to the satisfaction of the Planning Board. If the Declarant fails to comply with this restriction then the Town Board reserves the right, after due public hearing, to revert the zoning of the subject property, rescind any special permit(s) and approvals on the subject property, or revoke the property’s Certificate of Occupancy. The Declarant/owner shall waive any right to non-conformity in the event that any of the above Town Board actions are taken.

14. The above-mentioned covenants and restrictions shall be and constitute real covenants running with the land and shall be binding upon the Declarant and any and all subsequent owners of the said real property or any part thereof, and upon their heirs, executors, and administrators (or their successors and assigns) subject, however, to the right of the Town of Islip after a public hearing to amend, alter, cancel or repeal any of the foregoing covenants and restrictions at any time with the consent of the owner or owners for the time being of the premises herein described, and such right shall be extended and may be exercised without the consent of any adjacent owners or other owners or heirs of any other property.

IN WITNESS WHEREOF, the Declarant has hereunto set his hand and seal the day and year first above written.

PARK AVENUE BAY SHORE, LLC

By: [Signature]
Larry C. Gargano, Managing Member

STATE OF NEW YORK
COUNTY OF SUFFOLK

On the 22nd day of April in the year 2016 before me the undersigned, personally appeared Larry C. Gargano 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 on behalf of which the individual acted, executed the instrument.

[Notary Public]

Tax Map Number: 0500-392.00-02.00-097.000, 098.000, 099.002 and 108.001
EXHIBIT C-2

Chamber of Commerce of Greater Bay Shore Letter
November 29, 2017

Mr. William Mannix  
Industrial Development Agency  
40 Nassau Avenue  
Islip, New York 11751  

Re: North District Lofts  

Dear Bill:  

Our organization writes to express support for the North District Lofts project. Proposed by Larry Gargano, the Lofts will remove blighted parcels on Park Avenue and Fourth Avenue that will ultimately be combined to build a mixed-use complex of 90 apartments, mostly studios and 1 bedrooms, with retail units and community space that may include a gym and rooftop usage. This development will target young professionals as tenants because of its close proximity to the Bay Shore train station. With an attractive, understated streamline design, the focus will be the continued creation of a walkable community with access to our vibrant downtown offering fine restaurants, unique retail shops and service establishments.  

In recent years, multifamily developments have become the most popular housing choice on Long Island. Bay Shore's varied apartment styles provide an abundant selection for seniors, empty nesters, professional commuters, and of course, hundreds of employees at Northwell Health's facilities in our hamlet. After careful consideration we respectfully ask the IDA Board to approve this application before you.  

Sincerely yours,  

Donna deLuca Periconi  
President

77 EAST MAIN STREET • PO BOX 5110 • BAY SHORE, NEW YORK 11706  
Tel 631.665.7093 • Fax 631.665.7234 • www.baysharecommerce.com • bayshorecofund@optonline.net
EXHIBIT C-3

Long Island Housing Partnership, Inc. Letter
November 22, 2017

Town of Islip Industrial Development Agency
40 Nassau Avenue
Islip, N.Y. 11751

Re: North District Lofts

To: Supervisor and IDA Board Members

The Long Island Housing Partnership’s (LIHP) mission is to assist in the creation of affordable housing. LIHP has worked on numerous affordable and workforce housing developments in the Town of Islip.

While LIHP is neutral as to the request to waive any covenants and restrictions, LIHP supports developments such as North District lofts and feels this development is another critical component to the growth of Long Island and, especially, to the Town of Islip. It is important that this development will provide for 20% of the new units to be set aside as affordable housing.

This development will provide quality affordable rental housing and LIHP will support this development to ensure all affordability requirements are met.

If there is anything else I can provide you with, please contact me at (631) 435-4710. Thank you.

Sincerely,

Peter J. Elkowitz
President & CEO

James Britz
Executive Vice President
EXHIBIT C-4

Eligibility of Residential Developments for IDA Benefits

It has been nearly 50 years since the New York State Legislature enacted legislation authorizing industrial development agencies (IDAs) for the purpose of promoting economic development. Now, towns, cities, and counties throughout the state have created their own IDAs under General Municipal Law (GML) Article 18-A (the IDA Act) and use them to encourage—and to financially assist—a wide variety of real estate developments, often to great success.

In many instances, however, an IDA's efforts are met with objections, both in and out of court. Recently, for example, tax benefits afforded by a town's IDA to the Green Acres Mall on Long Island aroused community criticism, and led New York State Comptroller Thomas DiNapoli to announce that he would audit the IDA to determine its compliance with policies and procedures related to its approval of the project.

There also continues to be disputes over the scope of projects that may receive IDA benefits. Last August, the Supreme Court, Seneca County, rejected a challenge to a decision by the Seneca County IDA to provide tax benefits for a casino being built in the county. Nearpass v. Seneca County Industrial Development Agency, 53 Misc. 3d 737 (Sup.Ct. Seneca Co. 2016). The petitioners argued that the casino was not a project defined in the IDA Act and, therefore, that it was ineligible for IDA benefits. They pointed out, among other things, that when the IDA Act first was enacted, casinos were prohibited in New York, and after casinos were allowed by amendment to the New York Constitution, the IDA Act was not amended to include casinos as a project entitled to IDA benefits.

Perhaps more surprising than a dispute over the eligibility of a casino to receive IDA benefits was a recent court case that asked whether a residential development could qualify for IDA benefits—an issue of statewide significance. In Matter of Ryan v. Town of Hempstead Industrial Development Agency, Index No. 5324/16 (Sup.Ct. Nassau Co. Jan. 27, 2017), the Supreme Court, Nassau County, held that a residential apartment building project fell within the definition of a project for which IDA benefits may be granted.

After first providing background on the IDA Act, this column will discuss the court's decision in Matter of Ryan and its implications.

The IDA Act

When the legislation governing the creation, organization, and powers of IDAs in New York State was enacted in 1969, it provided that its general purpose was “to promote the economic welfare of [the state's] inhabitants and to actively promote, attract,
encourage and develop economically sound commerce and industry through governmental action for the purpose of preventing unemployment and economic deterioration."

This intent was further evidenced by the original provision of GML Section 858, which provided that:

The purposes of the agency shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipped and furnishing industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the state of New York and to improve their standard of living.

The original legislation has been amended a number of times since 1969 to broaden the scope of permissible IDA activities. For example, the definition of project was expanded to specifically include construction of industrial pollution control facilities (L 1971, ch 978), winter recreation facilities and then recreation facilities generally (L 1974, ch 854; L 1977, ch 630), horse racing facilities (L 1977, ch 267), railroad facilities (L 1980, ch 803) and educational or cultural facilities (L 1982, ch 541).

As noted above, however, it has not been amended to specifically include casinos. And it also does not specifically include residential developments.

In 1985, however, the New York state comptroller's office was asked by the village attorney for the village of Port Chester whether the construction of an apartment complex was a commercial purpose within the meaning of GML Section 854(4) and, thereby, whether it was a proper project for industrial development bond financing. In response, the Comptroller issued Opinion No. 85-51, 1985 N.Y. St. Comp. 70 (Aug. 16, 1985) (the "comptroller's opinion").

In the comptroller's opinion, the comptroller's office explained that, at its inception, the IDA Act's primary thrust was to promote the development of commerce and industry as a means of increasing employment opportunities.

The comptroller's opinion then reasoned that for an apartment complex to qualify as an eligible project under Article 18-A, it had to promote employment opportunities and prevent economic deterioration in the area served by the IDA.

The comptroller's opinion added that the comptroller's office was "not in a position to render an opinion" as to whether a project that consisted of the construction of an apartment complex was a commercial activity within the meaning of Article 18-A. Rather, it continued, such a determination "must be made by local officials based upon all the facts relevant to the proposed project."

Any such determination, the comptroller's opinion concluded, had to take into account the stated purposes of the IDA Act: "the promotion of employment opportunities and the prevention of economic deterioration."

When this issue reached the court in Triple S. Realty v. Village of Port Chester, Index No. 22355/86 (Sup. Ct. Westchester Co. Aug. 19, 1987), the Westchester County Supreme Court held that residential construction may be eligible for industrial development agency benefits if such construction "would increase employment opportunities and prevent economic determination in the area served by the IDA."

The decision by the Nassau County Supreme Court in Matter of Ryan provides further confirmation that
residential developments certainly are eligible to receive IDA benefits.

'Matter of Ryan'

The case arose after the Town of Hempstead Industrial Development Agency (TOHIDA) granted financial and tax benefits and assistance to Renaissance Downtowns UrbanAmerica, with respect to the construction of a new 336-unit residential apartment complex in the village of Hempstead on Long Island. That was Phase 1 of a multi-phase revitalization project that was planned to include additional mixed-use buildings and parking facilities.

The financial benefits and assistance granted by the TOHIDA included:

- exemptions from mortgage recording taxes for one or more mortgages;
- securing the principal amount not to exceed $70 million;
- a sales and use tax exemption up to $3.45 million in connection with the purchase/lease of building materials, services, or other personal property for the project; and
- abatement of real property taxes for an initial term of 10 years pursuant to a payment in lieu of taxes (PILOT) agreement.

Six petitioners, including a trustee for the village of Hempstead, challenged the TOHIDA's resolution in an Article 78 proceeding, arguing that an IDA could not grant benefits for a project that was residential, either in whole or in part, in nature.

For their part, the respondents contended that the development of a residential rental building fell within the ambit of the statutory definition of a project entitled to receive an IDA's financial assistance and benefits in that it promoted “employment opportunities” and prevented “economic deterioration” in the area served by the IDA.

The court agreed with the respondents and dismissed the petition.

In its decision, the court noted that the comptroller's opinion had observed that the determination of whether construction of an apartment complex was a commercial activity within the meaning of the IDA Act had to be made by local officials based on facts relevant to the proposed project.

The court then pointed out that the TOHIDA had approved Renaissance's application for assistance with respect to the first phase of the revitalization project based on the TOHIDA's findings, that, among other things:

- the town of Hempstead was in need of attractive multi-family housing to retain workers in the town and attract new business;
- a healthy residential environment located in the town was needed to further economic growth;
- there was a lack of affordable, safe, clean multi-family housing within the town; and
- the facility would provide the nucleus of a healthy residential environment, and would be instrumental and vital in the further growth of the town.

Moreover, the court continued, the TOHIDA also found that the development of the first phase of the facility would "promote and maintain the job opportunities, health, general prosperity and economic welfare" of the town's citizens and "improve their standard of living."

Given that the project promoted employment opportunities and served to combat economic deterioration in the area served by the TOHIDA, the court upheld the TOHIDA's decision as rationally based and not arbitrary or capricious, an abuse of discretion, or an error of law.

Conclusion

IDA benefits can play an important role in real estate development. For nearly five decades, they have benefited New Yorkers in numerous situations. As the comptroller's office and the courts have recognized, a project—including a residential project—that demonstrates that it promotes employment opportunities and prevents economic deterioration is eligible to receive IDA benefits.
EXHIBIT C-5

Ryan et al. v. Town of Hempstead Industrial Development Agency et al.
SHORT FORM ORDER

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

PRESENT: HON. JEFFREY S. BROWN
JUSTICE

In the Matter of DONALD L. RYAN, FLAVIA
FANNACCOME, JAMES DEMON, JOHN M. WILLIAMS,
REGINAL LUCAS and ROBERT DEBREW, JR.,

_petitioners,

For A Judgment Pursuant to Article 78 of the New York
Civil Practice and Rules,

_against_

TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT
AGENCY, RENAISSANCE DOWNTOWNS
URBAN AMERICA, LLC and RIDA PARCEL 1 LLC,

Respondents.

TRIAL/IAS PART 13
INDEX # 5324/16
Mut. Seq. 1
Mot. Date 9.13.16
Submit Date 11.17.16

The following papers were read on this motion
Papers Numbered

Notice of Petition, Affidavits, Exhibits, Memorandum Annexed
Verified Answers
Opposing Affidavits
Reply Affidavits
Sur-Reply Affidavit
Hearing Record (3 Vols.)

Application by petitioners pursuant to Article 78 to invalidate an act of the May 18, 2016 resolution passed by the Town of Hempstead Industrial Development Agency (TOHIDA) is denied as hereinafter provided.
In this Article 78 proceeding, petitioners seek to invalidate the resolution passed by respondent TOHIDA on May 13, 2016, which granted financial and tax benefits and assistance to respondent Renaissance Downtowns UrbanAmerica, LLC (Renaissance) in connection with the construction of a new 156-unit residential apartment complex on the northwest corner of the intersection of Washington and Front Streets (Phase 1 of the multi-phase Village of Hempstead downtown revitalization project) which was planned to include additional mixed-use buildings/parking facilities. The Phase 1 property was a tax exempt Village property for at least 50 years until December 15, 2015 when it was acquired by respondent Renaissance.

The financial benefits and assistance granted include:

exemptions from mortgage recording taxes for one or more mortgages securing the principal amount not to exceed $70,000,000;

sales and use tax exemption up to $3,450,000 in connection with the purchase of building materials, services or other personal property for the project;

abatement of real property taxes for an initial term of ten years pursuant to the Payment in Lieu of Taxes Agreement (PILOT).

Based on the theory that the resolution was affected by an error of law, i.e., that residential apartment buildings are not included in the type of project or facility that is eligible for financial assistance under the General Municipal Law Article 18-A (Industrial Development Act [the IDA or the Act]), petitioners seek to invalidate the subject resolution as ultra vires void.

In opposition, respondents first seek dismissal of the petition based on its alleged multiple fatal flaws including petitioners' lack of standing; failure to raise the ultra vires issue in the administrative proceeding before respondent TOHIDA; and failure to serve the attorney general in accordance with CPLR 7804(c).

The alleged flaws are not fatal and do not provide a basis for dismissal. Petitioners have standing to maintain an action for equitable or declaratory relief under State Finance Law § 123-b. Moreover, the issue of whether the project herein falls within the definition of a "project" for which IDA benefits may be granted [see Neurauter v. Seneca County IDA, Dev. Agency, 52 Misc 3d 518, Sup Ct, Seneca County 2016] is a question of law for the court, not the TOHIDA, to determine.

The development as outlined in the Appraisal Report (Exhibit "2" to the Petition) was approved in a unanimous 5-0, bi-partisan vote by the Village of Hempstead Board. It includes the construction of: residential units, retail space, medical office building, mixed-use residential office space, senior independent living apartment building, hotel and restaurant space.

-2-
In further support of its dismissal, movants argue that the petition fails to state a viable cause of action as it is based on the false premise that an Industrial Development Agency may not grant benefits for a commercial project that is residential, either in whole or in part, in nature.

For the reasons which follow, the petition must be dismissed.

Pursuant to General Municipal Law § 858, an Industrial Development Agency

"shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities . . . and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their recreation opportunities, prosperity and standard of living."

An Industrial Development Agency is thus a "governmental agency[y] or instrumentality[y] created for the purpose of preventing unemployment and economic deterioration (General Municipal Law § 852) and to "provide one means for communities to attract new industry, encourage plant modernization and create new job opportunities" (Governor’s Mem., 1969 McKinney’s Session Laws of N.Y. at 2572).

According to respondents, the development of a residential rental building falls within the ambit of the statutory definition of a project entitled to financial assistance and benefits, as set forth in § 856(4) of the General Municipal Law in that it "promotes employment opportunities and prevents economic deterioration in the area served by the industrial development agency" (Opn. St. Comp. No. 85-61 [N Y S. Ct., 1985 WL 25913]).

In the opinion of the State Comptroller, the determination of whether construction of an apartment complex is a commercial activity within the meaning of the statute must be made by

1As set forth in § 856(4), the term “project” is broadly defined to include, in relevant part, “any land, any building or other improvement, and all real and personal properties located within the state of New York and within or outside the partially within and partially outside the municipality for whose benefit the agency was created.”
local officials based upon facts relevant to the proposed project ("Local officials must determine, based upon all the relevant facts, whether construction of an apartment complex will promote employment opportunities and prevent economic deterioration ... "). Respondents argue that TOHIDA acted within the scope of its authority in resolving to provide IDA assistance to the project since it would promote job creation and growth in a distressed area of the Village of Hempstead and serve as the first physical manifestation of the Village’s Downtown Revitalization plan and a catalyst for future phases.

Here, the record establishes that a duly noticed public hearing was held regarding respondent Renaissance’s application for TOHIDA assistance with respect to the first phase of the $2.5 million Hempstead Revitalization project for which site plan approval was already in place and a building permit issued. The resolution was granted based on respondent TOHIDA’s findings, that, among other things:

(a) The Town of Hempstead is in need of attractive multi-family housing to retain workers in the Town and attract new business;

(b) A healthy residential environment located in the Town of Hempstead is needed in order to further economic growth;

(c) There is a lack of affordable, safe, clean multi-family housing within the Town of Hempstead;

(d) The facility will provide the nucleus of a healthy residential environment, and will be instrumental and vital in the further growth of the Town of Hempstead.

Respondent TOHIDA also found that:

the acquisition, construction and equipping of the Phase I Facility will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the Town of Hempstead and the State of New York and improve their standard of living and thereby serve the public purposes of the Act.

the project conformed with local zoning laws and planning regulations of the Town of Hempstead; and

the project will not have a significant effect on the environment as determined in accordance with Article 8 of the Environmental Conservation Law and regulations promulgated thereunder.
The allegations proffered in opposition to the resolution, regarding traffic congestion, additional garbage/sewage, additional burden of increased student population in an already overcrowded/underfunded school district; burden of increased financial costs of municipal services to support increased population, are speculative and lack merit in the face of reasoned evaluation of the project by respondent TOHIDA as set forth in the record. As stated in the affidavit of Wayne J. Hall, St., Mayor of the Incorporated Village of Hempstead and Chairman of the Village Community Development Agency:

"the IDA benefits awarded to Renaissance for this particular Phase 1 of the development are critically important to the revitalization of the Village of Hempstead's downtown area, and are essential to the twin goals of preventing any further physical and economic deterioration of the area, as well as promoting employment opportunities to the Village."

As stated in the Socio-Economic Impact of the Village of Hempstead's Revitalization Plan report, dated March 31, 2016, (Exhibit "A" to the Affidavit of Donald Monifi in Opposition to Petition):

"Upon completion, the overall revitalization of the Village of Hempstead will have generated an estimated $4 billion in economic activity, comprised of economic activity during and after the construction period.

Nearly $1 billion of primary and secondary economic activity will be generated from construction of the development encompassing 5 million square feet, comprising 2.8 million square feet of 3,500 residential units and 2.2 million square feet of mixed use, retail, hospitality, office and other commercial uses.

This will result in new socio-economic improvements to the Village of Hempstead that will provide much needed housing for Long Island's young professionals and active adults, and create during the construction period as many as 22,000 temporary construction and secondary jobs generating nearly $1.4 billion in wages.

When completed, the revitalization will create approximately 6,000 permanent and 4,500 secondary jobs generating $494 million in wages of which 1,500 of the permanent jobs generating $125 million in wages projected to be held by Village of Hempstead residents. Thus, in total, the construction activity and resulting permanent jobs and their related secondary economic impacts are expected to generate nearly $4 billion in primary and secondary economic impact, and over the 20-year PILOT period $1.42 billion in new county, town, school and village property taxes, and $425 million in new county sales taxes."
In reviewing the actions of an administrative agency, courts must assess whether the
determination was the result of an error of law or was arbitrary, capricious, or an abuse of
discretion such that the actions at issue were taken without sound basis in reason and without
tagard to the facts (Matter of County of Monroe v Kulaifian, 83 NY2d 185, 189 [1994], citing
Matter of Pell v Bd. of Educ., 34 NY2d 222, 231 [1974]; Akpan v Koch, 75 NY2d 561, 570-71
[1990]; Matter of Calvi v Zoning Bd. of Appeals of the City of Yonkers, 238 AD2d 417, 418 [2d
Dept 1997]). The agency's determination need only be supported by a rational basis (Matter of
County of Monroe v Kulaifian, supra; Matter of Jennings v Comm. N.Y., Dept. of Social Svcs.,
71 AD3d 98, 109 [2d Dept 2010]). If the determination is rationally based, a reviewing court may
not substitute its judgment for that of the agency even if the court might have decided the matter
differently (Matter of Sawatsky v Zoning Bd. of Appeals of Southampton, 5 AD3d 779, 780 [2d
Dept 2004]; Matter of Calvi v Zoning Bd. of Appeals of the City of Yonkers, supra). It is not for
the reviewing court to weigh the evidence or reject the choice made by the agency where the
evidence conflicts and room for choice exists (Matter of Calvi v Zoning Bd. of Appeals of the
City of Yonkers, supra, citing i.e., Ultra Corp. v. N.Y. State Liquor Authority, 89 NY2d 411, 424 [1996]; Akpan v Koch,
supra).

The record at bar establishes that in adopting the challenged resolution following a public
hearing, review of Renaissance's application, and the environmental effects, respondent
TOHIDA did not act in excess of its jurisdiction or beyond the scope of its authority; i.e., ultra
vires. Nor was TOHIDA's decision after review of all of the circumstances to adopt the
resolution finding that the Phase I facility constituted a "project" under the IDA affected by an
error of law as would warrant relief under Article 78.

Whereas, as here, the project at issue promotes employment opportunities and serves to
combat economic deterioration in an area served by an industrial development agency, a finding
that the project falls within the ambit of the IDA is rationally based, neither arbitrary or
capricious, or an abuse of discretion, nor an error of law.

Accordingly, the petition is denied and the proceeding is hereby dismissed.

This constitutes the decision and order of this court. All applications not specifically
addressed herein are denied.

Dated: Mineola, New York
January 25, 2017

[Signature]
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EXHIBIT D

Town of Islip Industrial Development Agency Uniform Tax Exemption Policy
TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY

UNIFORM TAX EXEMPTION POLICY

The Town of Islip Industrial Development Agency (TOIDA) provides financial assistance (tax-exempt or taxable bonds and/or straight lease transactions) for projects which promote the economic growth and health of Islip Town and the Long Island region. TOIDA provides financial assistance to all projects and facilities as defined in Title I of Article 18A of the General Municipal Law. These projects and facilities include, but are not limited to: industrial, manufacturing, research and development, warehousing, commercial, office, recreation and civic facilities. Also included are: affordable housing, senior housing, assisted living facilities, brownfield redevelopment projects and projects that eliminate commercial blight. Certain retail projects are included (those that are in conformance with Sec. 862 of the NYS GML, those that are part of a mixed use downtown redevelopment plan and those that involve the elimination of community blight).

All projects receiving financial assistance through TOIDA are eligible for various tax exemptions and abatements.

I. REAL PROPERTY TAXES

A. Real Property Tax Abatement: TOIDA provides real property tax abatements in the form of reduction of existing taxes and/or freezing existing taxes and/or abating the increased assessment (value added) as a result of the project. Real property tax abatements may be structured in the form of fixed annual payments with or without scheduled increases over a period of time or in the form of abatements of the increased assessment that results from the project over a period of time or in the form of reduction of the existing taxes with a phase in back to the original tax level over a period of time.

Each project is reviewed and evaluated on a case by case basis. The Agency review utilizes criteria that measure the project's level of significance and/or strategic value and/or impact upon the Town of Islip at both the micro and macro level as well as upon Long Island as a Region and/or the State economy.

As a general rule, the term of the real property tax abatement is ten years. The basic real property tax abatement provided by the TOIDA is based upon the equivalent of Section 485-b of the New York State Real Property Tax Law. This section provides for a 50% real property tax abatement on the increased assessed value in the first year; 45% real property tax abatement in the second year; 40% abatement in the third year and thereafter declining 5% per year over a ten year period. A 485-b real property tax abatement is the minimum that TOIDA provides. An enhanced real property tax abatement is considered and/or provided under the following circumstances:
1. Existing Vacant Facilities & Brownfields: In order to encourage "reuse" and upgrading of existing building stock and environmentally damaged properties commonly referred to as brownfields, TOIIA may provide an enhanced real property tax benefit and abatement for projects involving vacant existing facilities and brownfields. The benefits may include freezing or reducing the assessment base of the pre-improved facility and granting of abatements that are equivalent of double the benefits provided by Section 485-b of the Real Property Tax Law. These abatements will consist of a 100% abatement on the increased assessed value in the first year; a 90% abatement in the second year; and 80% abatement in the third year and thereafter declining 10% per year over a ten year period.

2. Significant/Strategic Projects: TOIIA may provide enhanced real property tax abatements (double 485-b) to projects that are considered significantly and strategically important to the economic well being of Islip Town and the Long Island region. Provision of an enhanced real property tax abatement would be considered for high-tech and biomedical manufacturing; research and development; computer and data processing facilities; financial (back office) operations; professional services industry; corporate, national or regional headquarters; and projects deemed significant to the revitalization of distressed communities. Each project eligible for enhanced property tax abatement is evaluated pursuant to the guidelines/criteria contained in Attachment 1.

3. Projects within the boundaries of the former Empire Zone: TOIIA provides enhanced real property tax abatement to projects located within the boundaries of the former State designated Empire Zone. The enhanced property tax abatement consists of a 100% abatement on the increased assessed value for the first 5 years; 90% in year 6; 80% in year 7 and thereafter declining 10% per year through year 14.

4. Housing projects: For qualified housing projects (affordable housing, senior housing, assisted living facilities) that provide a public benefit in accordance with the Town of Islip Comprehensive Plan and related Planning Department studies, TOIIA may set flat PILOT payments on a per unit, per year basis. The length and terms of these agreements will be determined on a case-by-case basis, based upon such factors as affordability, market conditions & the extent of public subsidies and participation in the project.

5. Civic Facilities (Not-for-Profits): TOIIA provides property tax exemption for projects owned by 501(c)(3) corporations, equivalent to the exemption (100%) these not-for-profit corporations would receive under the RPTL, absent the involvement of the agency. For projects leased by 501(c)(3) corporations, TOIIA provides a 100% abatement on any improvement to real property for the term of the lease, as long as the facility is used exclusively for, and in furtherance of, their 501(c)(3) mission.

6. Blighted Commercial Properties: TOIIA may provide enhanced property tax abatements (double 485-b) for projects that eliminate community blight as defined in Chapter 6A, Article II of the Islip Town Code.

7. Mixed Use properties in Downtown Commercial Corridors: TOIIA may provide enhanced real property tax abatements (double 485-b) for projects on which a combination of residential and commercial construction work is performed to create a building used for mixed residential and commercial purposes. Such projects must
be located within proscribed downtown corridors as contained in the Suffolk County Industrial and Commercial Incentive Board Plan adopted in 1999, as amended and/or those projects governed by Chapter 68 of the Town Code known as Downtown Development Districts and Business Districts.

8. Town and/or other Municipally Owned Property: Property owned by the Town of Islip and/or another municipal entity that is sold and/or leased to a private developer and/or private company may qualify for a 100% abatement and/or an enhanced abatement for periods up to 15 years. However, no village taxes will be abated in any PILOT Agreement entered into under this provision.

9. Large Employment Generators: Projects that create or retain 500 jobs or more may qualify for tax abatements for periods of up to 20 years. For new construction, this would be in the form of a 100% abatement the first year and declining 5% per year for 20 years. For existing buildings, the benefits may include reducing existing real property taxes and/or freezing the real property tax base and/or granting real property tax abatements on the increased value that result from the project for periods up to 20 years.

B. Projects in Foreign Trade Zone: For projects located within Islip’s Foreign Trade Zone, all payments are made pursuant to lease and lease with the Town of Islip’s Foreign Trade Zone Authority.

C. Recapture of Benefits: Projects that receive enhanced real property tax abatements are subject to the recapture of benefits pursuant to the following schedule:

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The above term period is from the effective date of the PILOT Agreement. Imposition of any recapture is at the sole discretion of the TOIIIDA and is reviewed/considered on a case by case basis. Reasons for the recapture of benefits include the following:

1. Sale or closure of the facility and departure of the company from the Long Island region.
2. Significant change in the use of the facility and/or the business activity of the company.
3. Significant employment reductions not reflective of the company’s (normal) business cycle and/or local and national economic conditions.

D. Deviations from Policy: TOIIIDA reserves the right to deviate from its uniform real property tax abatement policy under special/extraordinary circumstances. Deviations can take the form of providing less or more in the way of real property tax abatements. These deviations would be done by reducing or increasing the percentage of the annual abatement, or by reducing or increasing the term of the PILOT Agreement, or by doing a combination of both. Provision of less in the way of real property tax abatements is applicable to projects that are subsequent phases of a previously TOIIIDA financed, multi-phased project and/or TOIIIDA determines that the benefit provided by these projects merits a reduced level of incentive.
II. SALES TAX EXEMPTIONS

A. Eligible Expenses: TOIDA provides sales tax exemptions on all materials and/or equipment used or incorporated into the project during the initial construction/renovation and equipping of the project. TOIDA does not provide sales tax exemption for ongoing expenses after the project is completed.

B. TOIDA executes a sales tax exemption agreement with the project occupant that contains an expiration date for the continued availability of sales tax exemptions. The expiration date is based upon the anticipated project completion date. Should the project not be complete by the expiration date, the project occupant must request an extension of the expiration date from TOIDA.

C. Reporting Requirements: Project occupants (agents) are required to annually file a statement of the value of all sales tax exemptions claimed for the year to the New York State Department of Taxation and Finance. TOIDA requires that each project occupant (agent) provides the Agency with a copy of that annual filing.

D. Deviations from Policy: TOIDA reserves the right to deviate from its uniform sales tax exemption policy under special/extraordinary circumstances. Deviations can take the form of providing less or more in the way of sales tax exemptions. These deviations would be done by reducing the full sales tax exemption to a partial sales tax exemption for the initial project completion period or by extending the term of the sales tax agreement to include ongoing operating expenses. Provision of less in the way of sales tax exemption is applicable to projects that are subsequent phases of a previously TOIDA financed multi-phase project and/or TOIDA determines that the benefit provided by these projects merits a reduced level of incentive (cost). Provision of more in the way of sales tax exemption is applicable to projects that are considered extremely significant and vital to the economic health and well-being of Islip Town and the Long Island region. Any applicant may apply in writing to TOIDA for increased sales tax exemptions setting forth reasons for a proposed deviation from the uniform policy. Such request should set forth specific data and information which would cause TOIDA to deviate from its uniform policy focusing, in whole or in part, on the guidelines and criteria set forth in Attachment 1 hereto. Each time TOIDA deviates from its uniform sales tax exemption policy, it will provide written notification, with an explanation for the deviation, to the chief executive officer of each affected taxing jurisdiction.

III. MORTGAGE RECORDING TAX

All TOIDA assisted projects are eligible for exemption from the mortgage recording tax.
A. Project Related Financing: Financing secured by a mortgage which is directly related to the project is exempt from the mortgage recording tax.

B. Non-Project Related Financing: Financing secured by a mortgage which is not directly related to, or a part of, the project, are not eligible for exemption from mortgage recording tax.

C. Deviations from Policy: TOIIIDA reserves the right to deviate from its uniform mortgage recording tax exemption policy under special/extraordinary circumstances. Deviations can take the form of providing less or more in the way of mortgage recording tax exemptions. These deviations would be done by reducing the mortgage recording tax exemption from a full exemption to a partial exemption or by allowing all or part of the non-project related financing to be exempt from mortgage recording tax. Provision of less in the way of exemption from mortgage recording tax is applicable to projects that are subsequent phases of a previously TOIIIDA financed multi-phase project and/or TOIIIDA determines that the benefit provided by these project merits a reduced level of incentive (cost). Provision of more in the way of exemption from mortgage recording tax is applicable to projects that are considered extremely significant and vital to the economic health and well-being of Islip Town and the Long Island region. Any applicant may apply in writing to the TOIIIDA for increased mortgage recording tax exemptions setting forth reasons for a proposed deviation from the uniform policy. Such request should set forth specific data and information which would cause TOIIIDA to deviate from its uniform policy focusing in whole or in part on the guidelines and criteria set forth in Attachment 1 hereto. Each time TOIIIDA proposes to deviate from its uniform mortgage recording tax exemption policy, it will provide written notification with an explanation for the deviation to the chief executive officer of each affected taxing jurisdiction.
ATTACHMENT 1

ENHANCED REAL PROPERTY TAX ABATEMENT GUIDELINES/Criteria

TOIDA considers the following significant indicators when determining whether to provide enhanced real property tax abatements. (These determinants are not all inclusive and are not in priority order):

1. **Economy**: Local and regional economic conditions at the time of application.

2. **Jobs**: The extent to which the project will directly create or retain permanent private sector jobs as well as "temporary" jobs during the construction period. In addition, the level of secondary "multiplier" jobs that will be created or retained as a result of the project.

3. **Project Cost/Payroll**: Level of direct annual payroll that results from the project as well as secondary "multiplier" payroll and payroll during the initial construction period.

4. **Project Purpose**: Type of industrial or commercial activity proposed for the facility.

5. **Site Alternatives**: Likelihood that the project will locate elsewhere resulting in subsequent real economic losses for retention projects and possible failure to realize future economic benefits for attraction projects.

6. **Project Location**: Nature of the property before the project (vacant land, vacant buildings, distressed community, Former Empire Zone, blighted property, downtown corridor).

7. **Project Benefits**: Amount of private sector investment as a result of the project and the level of additional revenue for local taxing jurisdictions.

8. **Project Costs**: Impact of the project and the proposed abatements/exemption on local taxing jurisdictions and extent to which will require additional services from local government entities.
AGENDA ITEM # 6

TYPE OF RESOLUTION: INDUCEMENT RESOLUTION

COMPANY: MAPLE AVE LOFTS, LLC 2017

PROJECT LOCATION: 11 MAPLE AVE, BAY SHORE

JOBS (RETAINED/CREATED): RETAINED - 00 -
                             CREATE     - 03 -

INVESTMENT: $23,510,000
RESOLUTION OF THE TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY TAKING OFFICIAL ACTION TOWARD APPOINTING ELEVEN MAPLE AVENUE ASSOCIATES, LLC, A NEW YORK LIMITED LIABILITY COMPANY, ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF ELEVEN MAPLE AVENUE ASSOCIATES, LLC AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING AS AGENT(S) OF THE AGENCY FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING AND EQUIPPING THE FACILITY AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE FACILITY

WHEREAS, Eleven Maple Avenue Associates, LLC, a limited liability company organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Eleven Maple Avenue Associates, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Company”), has applied to the Town of Islip Industrial Development Agency (the “Agency”), to enter into a transaction in which the Agency will assist in the acquisition of an approximately 1.698 acre parcel of land (Tax Map #0500-393.00-04.00-026.010) located at 11 Maple Avenue, Bay Shore, New York 11706 (the “Land”), the construction of an approximately 132,329 square foot building thereon, together with approximately one-hundred three (103) covered parking spaces at ground-level of the building and approximately one-hundred forty-six (146) surface parking spaces to be provided between the proposed building and the existing municipal parking lot (the “Improvements”), and the acquisition and installation therein of certain equipment and personal property (the “Equipment”; and, together with the Land and the Improvements, the “Facility”), which Facility is to be leased by the Agency to the Company and is to be used by the Company as a mixed-use facility with approximately 90 residential apartments and approximately 1,800 square feet of commercial/retail space located on the ground floor (the “Project”); and

WHEREAS, the Agency will acquire a leasehold interest in the Land and the Improvements and title to the Equipment, will sublease and lease the Facility to the Company, all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 47 of the Laws of 1974 of the State of New York, as the same may be amended from time to time (collectively, the “Act”); and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company in connection with the Facility, consistent with the policies of the Agency, in the form of exemptions from mortgage recording taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes and abatement of real property taxes, consistent with the policies of the Agency, all to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein; and

WHEREAS, as of the date of this resolution, no determination for financial assistance has been made; and
WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, prior to the date of the Hearing (defined below), the Agency will have made a determination for financial assistance; and

WHEREAS, prior to the closing of the transaction described herein, a public hearing (the “Hearing”) will be held so that all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency or the location or nature of the Facility can be heard; and

WHEREAS, notice of the Hearing will be given prior to the closing of the transaction described herein, and such notice (together with proof of publication) will be substantially in the form annexed hereto as Exhibit A; and

WHEREAS, the minutes of the Hearing are or will be annexed hereto as Exhibit B; and

WHEREAS, the Agency has given due consideration to the application of the Company and to representations by the Company that the proposed financial assistance is either an inducement to the Company to maintain the Facility in the Town of Islip or is necessary to maintain the competitive position of the Company in its industry; and

WHEREAS, the Agency has required the Company to provide to the Agency a feasibility report (the “Feasibility Study”), together with such letters or reports from interested parties and governmental agencies or officials (the “Letters of Support” and together with the Feasibility Study, the “Requisite Materials”) to enable the Agency to make findings and determinations that the Facility qualifies as a “project” under the Act and that the Facility satisfies all other requirements of the Act, and such Requisite Materials are listed below and attached as Exhibit C hereof:

1. Benefits Analysis for Town of Islip Industrial Development Agency – Maple Avenue Lots, dated December, 2017 by VHB Engineering, Surveying and Landscape Architecture, P.C.;

2. Chamber of Commerce of Greater Bay Shore Letter, dated November 29, 2017;


5. Ryan et al. v. Town of Hempstead Industrial Development Agency et al.; and

WHEREAS, the Agency’s Uniform Tax Exemption Policy (“UTEP”), which such UTEP is annexed hereto as Exhibit D, provides for the granting of financial assistance by the Agency for housing projects pursuant to Section IA.4.; and
WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the
regulations adopted pursuant thereto by the Department of Environmental Conservation of the
State of New York (collectively, the “SEQR Act” or “SEQR”), the Agency constitutes a
“State Agency”; and

WHEREAS, to aid the Agency in determining whether the Facility may have a
significant effect upon the environment, the Company previously prepared and submitted to
the Agency an Environmental Assessment Form and related documents (the
“Questionnaire”) with respect to the Facility, a copy of which is on file at the office of the
Agency; and

WHEREAS, the Questionnaire has been reviewed by the Agency; and

WHEREAS, pursuant to a resolution adopted by the Agency on May 8, 2012 (the
“2012 Resolution”), the Agency determined that the action relating to the acquisition,
construction, equipping and operation of the Facility is an “unlisted” action, as that term is
defined in the SEQR Act and that the action will not have a “significant effect” on the
environment; and

WHEREAS, there has been no significant change in the Project since the time of the
2012 Resolution which would change the SEQR determination made therein; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses,
claims, expenses, damages and liabilities that may arise in connection with the transaction
contemplated by the leasing of the Facility by the Agency to the Company.

NOW, THEREFORE, BE IT RESOLVED by the Town of Islip Industrial
Development Agency (a majority of the members thereof affirmatively concurring) that:

Section 1. Based upon the Environmental Assessment Form completed by the
Company and reviewed by the Agency and other representations and information furnished
by the Company regarding the Facility, the Agency upholds the SEQR Determination made
pursuant to the 2012 Resolution, that the action relating to the acquisition, construction,
equipping and operation of the Facility is an “unlisted” action, as that term is defined in the
SEQR Act. The Agency also has determined that the action will not have a “significant
effect” on the environment, and, therefore, an environmental impact statement will not be
prepared. This determination constitutes a negative declaration for purposes of SEQR.
Notice of this determination shall be filed to the extent required by the applicable regulations
under SEQR or as may be deemed advisable by the Chairman or Executive Director of the
Agency or counsel to the Agency.

Section 2. In connection with the acquisition, construction and equipping of the
Facility the Agency hereby makes the following determinations and findings based upon the
Agency’s review of the information provided by the Company with respect to the Facility,
including, the Company’s Application, the Requisite Materials and other public information:

(a) There is a lack of affordable, safe, clean and modern rental housing in the
Town of Islip, Suffolk County:
(b) Such lack of rental housing has resulted in individuals leaving the Town of Islip and therefore adversely affecting employers, businesses, retailers, banks, financial institutions, insurance companies, health and legal services providers and other merchants in the Town of Islip and otherwise adversely impacting the economic health and well-being of the residents of the Town of Islip, employers, and the tax base of the Town of Islip;

(c) The Facility, by providing such rental housing will enable persons to remain in the Town of Islip and thereby to support the businesses, retailers, banks, and other financial institutions, insurance companies, health care and legal services providers and other merchants in the Town of Islip which will increase the economic health and well-being of the residents of the Town of Islip, help preserve and increase permanent private sector jobs in furtherance of the Agency’s public purposes as set forth in the Act, and therefore the Agency finds and determines that the Facility is a commercial project within the meaning of Section 854(4) of the Act;

(d) The Facility will provide services, i.e., rental housing, which but for the Facility, would not otherwise be reasonably accessible to the residents of the Town of Islip.

Section 3. The acquisition, construction and equipping of the Facility by the Agency, the subleasing and leasing of the Facility to the Company and the provision of financial assistance pursuant to the Act will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the Town of Islip and the people of the State of New York and improve their standard of living, and thereby serve the public purposes of the Act, and the same is, therefore, approved.

Section 4. Subject to the provisions of this resolution, the Agency shall (i) acquire, construct and equip the Facility, and (ii) lease and sublease the Facility to the Company.

Section 5. The Company hereby agrees to comply with Section 875 of the Act. The Company further agrees that the tax exemptions and abatements provided pursuant to the Act and the appointment of the Company as agent of the Agency pursuant to this Authorizing Resolution are subject to termination and recapture of benefits pursuant to Sections 859-a and 875 of the Act and the recapture provisions of the Lease and Project Agreement, dated a date to be determined (the “Lease Agreement”), by and between the Company and the Agency.

Section 6. Counsel to the Agency is authorized and directed to work with Transaction Counsel (Nixon Peabody LLP) to prepare, for submission to the Agency, all documents necessary to affect the transfer of the real estate described in the foregoing resolution.

Section 7. The Chairman, the Executive Director, the Deputy Executive Director and all members of the Agency are hereby authorized and directed (i) to distribute copies of
this resolution to the Company, and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 8. Any expenses incurred by the Agency with respect to the Facility, including the expenses of Transaction Counsel, shall be paid by the Company. By acceptance hereof, the Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Facility.

Section 9. This resolution shall take effect immediately.

ADOPTED: December 19, 2017
ACCEPTED: _______ __, 2017

ELEVEN MAPLE AVENUE ASSOCIATES, LLC

By:________________________
Name:_______________________
Title:_______________________
STATE OF NEW YORK
COUNTY OF SUFFOLK

I, the undersigned Assistant Secretary of the Town of Islip Industrial Development Agency, DO HEREBY CERTIFY THAT:

I have compared the foregoing copy of a resolution of the Town of Islip Industrial Development Agency (the "Agency") with the original thereof on file in the office of the Agency, and the same is a true and correct copy of such resolution and of the proceedings of the Agency in connection with such matter.

Such resolution was passed at a meeting of the Agency duly convened in public session on December 19, 2017, at Islip Town Hall, 655 Main Street, Islip, New York, at which meeting the following members were:

Present:

Absent:

Also Present:

The question of the adoption of the foregoing resolution was duly put to vote on roll call, which resulted as follows:

Voting Ayes

and, therefore, the resolution was declared duly adopted.

The Application is in substantially the form presented to and approved at such meeting.
I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), (ii) said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections 103a and 104, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand as of December 19, 2017.

_________________________
Assistant Secretary
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Title 1 of Article 18-A of the New York State General Municipal Law will be held by the Town of Islip Industrial Development Agency on the ___ day of ________, 201__, at _______ m., local time, at 40 Nassau Avenue, Islip, New York 11751 in connection with the following matters:

Eleven Maple Avenue Associates, LLC, a limited liability company organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Eleven Maple Avenue Associates, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Company”), has applied to the Town of Islip Industrial Development Agency (the “Agency”), to enter into a transaction in which the Agency will assist in the acquisition of an approximately 1.698 acre parcel of land (Tax Map #0500-393.00-04,00-026,010) located at 11 Maple Avenue, Bay Shore, New York 11706 (the “Land”), the construction of an approximately 132,329 square foot building thereon, together with approximately one-hundred three (103) covered parking spaces at ground-level of the building and approximately one-hundred forty-six (146) surface parking spaces to be provided between the proposed building and the existing municipal parking lot (the “Improvements”), and the acquisition and installation therein of certain equipment and personal property (the “Equipment”; and, together with the Land and the Improvements, the “Facility”), which Facility is to be leased by the Agency to the Company and is to be used by the Company as a mixed-use facility with approximately 90 residential apartments and approximately 1,800 square feet of commercial/retail space located on the ground floor (the “Project”). The Facility will be initially owned, operated and/or managed by the Company.

The Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from mortgage recording taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes and abatement of real property taxes, consistent with the policies of the Agency.

A representative of the Agency will, at the above-stated time and place, hear and accept written comments from all persons with views in favor of or opposed to either the proposed financial assistance to the Company or the location or nature of the Facility. At the hearing, all persons will have the opportunity to review the application for financial assistance filed by the Company with the Agency and an analysis of the costs and benefits of the proposed Facility.

Dated: December __, 2017

TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY

By: William G. Mannix
Title: Executive Director
EXHIBIT B
MINUTES OF PUBLIC HEARING HELD ON

TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY
(ELEVEN MAPLE AVENUE ASSOCIATES, LLC 2017 FACILITY)

Section 1. ______________ of the Town of Islip Industrial Development Agency (the “Agency”) called the hearing to order.

Section 2. ______________ then appointed ______________ of the Agency, the hearing officer of the Agency, to record the minutes of the hearing.

Section 3. The hearing officer then described the proposed transfer of the real estate, the other financial assistance proposed by the Agency and the location and nature of the Facility as follows:

Eleven Maple Avenue Associates, LLC, a limited liability company organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Eleven Maple Avenue Associates, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Company”), has applied to the Town of Islip Industrial Development Agency (the “Agency”), to enter into a transaction in which the Agency will assist in the acquisition of an approximately 1.698 acre parcel of land (Tax Map #050-393.00-04.00-026.010) located at 11 Maple Avenue, Bay Shore, New York 11706 (the “Land”), the construction of an approximately 132.329 square foot building thereon, together with approximately one-hundred three (103) covered parking spaces at ground-level of the building and approximately one-hundred forty-six (146) surface parking spaces to be provided between the proposed building and the existing municipal parking lot (the “Improvements”), and the acquisition and installation therein of certain equipment and personal property (the “Equipment”; and, together with the Land and the Improvements, the “Facility”), which Facility is to be leased by the Agency to the Company and is to be used by the Company as a mixed-use facility with approximately 90 residential apartments and approximately 1,800 square feet of commercial/retail space located on the ground floor (the “Project”). The Facility will be initially owned, operated and/or managed by the Company.

The Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from mortgage recording
taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes and abatement of real property taxes, consistent with the policies of the Agency.

Section 4. The hearing officer then opened the hearing for comments from the floor for or against the proposed transfer of real estate, the other financial assistance proposed by the Agency and the location and nature of the Facility. The following is a listing of the persons heard and a summary of their views:

Section 5. The hearing officer then asked if there were any further comments, and, there being none, the hearing was closed at ________.
STATE OF NEW YORK  
COUNTY OF SUFFOLK  

: SS.:  

I, the undersigned Assistant Secretary of the Town of Islip Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the foregoing copy of the minutes of a public hearing held by the Town of Islip Industrial Development Agency (the “Agency”) on the ___ day of ___ 20___, at _______ a.m., local time, at ______________, New York, with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of the minutes in connection with such matter.

IN WITNESS WHEREOF, I have hereunto set my hand as of ___________, 20___.

____________________________
Assistant Secretary
EXHIBIT C

Requisite Materials
EXHIBIT C-1

Benefits Analysis for Town of Islip Industrial Development Agency – Maple Avenue Lofts
Maple Avenue Lofts
11 Maple Avenue, Hamlet of Bay Shore, Town of Islip, Suffolk County, New York

PREPARED FOR

Eleven Maple Avenue Associates, LLC
5 Shore Lane
Bay Shore, New York 11706

PREPARED BY

VHB
VHB Engineering, Surveying and Landscape Architecture, P.C.
100 Motor Parkway
Suite 135
Hauppauge, NY 11788
631.787.3400

December 2017
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Introduction

This report has been prepared at the request of Eleven Maple Avenue Associates, LLC (the “Applicant”), 5 Shore Lane, Bay Shore, New York 11706. The Applicant is seeking Town of Islip Industrial Development Agency (IDA) benefits associated with the Applicant’s proposed redevelopment (the “Project” or “Maple Avenue Lofts”) of a portion of an existing municipal parking lot and vacant land located at 12 Maple Avenue in the hamlet of Bay Shore, Town of Islip, Suffolk County (the “subject property”) (see Figure 1). The Project involves construction of a four-story mixed-use building with ground level parking. The four-story building would contain 50 rental apartment units, amenities (i.e., a gym, community terrace, a community room, lounge and green roof), and approximately 1,850 square feet (sf) of retail space. In addition, the Project would involve improvements to the existing Town of Islip-owned municipal parking lots to the west and east of the subject property.

The 1.70±-acre subject property is comprised of one parcel, known on the Suffolk County Tax Map as District 500 – Section 393 – Block 4 – Lot 26.10, and is situated on the southeast corner of Gibson Street and Maple Avenue. A portion of a municipal parking lot occupies the eastern portion of the subject property, while the western portion of the subject property contains undeveloped turf with scattered trees. The municipal parking lot west of the subject property (west of Maple Avenue) to be modified comprises three parcels, known on the Suffolk County Tax Map as District 500 – Section 419 – Block 4 – Lots 36, 37 and 38. The municipal parking lot east of the subject property to be modified comprises three parcels, known on the Suffolk County Tax Map as District 500 – Section 393 – Block 4 – Lots 24.3, 25.3 and 26.8.
Upon implementation of the Project, the four-story mixed-use building would be situated on the western portion of the subject property and would contain a garage level with parking stalls and approximately 1,853 sf of retail at the northwest corner of the building; new residential space including a total of 18 studio units, 45 one-bedroom units and 27 two-bedroom units divided amongst the first floor, second floor and third floor; and amenities on the first floor, as well as a landscaped courtyard on a portion of the rooftop above the garage. The total square footage of the proposed building would be approximately 132,398 sf including approximately 39,818 sf of garage level parking, 1,853 sf of retail, and approximately 90,727 sf of residential area including amenities. A total of 261 parking spaces would be provided, including 108 spaces enclosed within the garage level of the building for use by the residents and 158 public surface spaces distributed throughout the western portion of the subject property and the adjacent municipal lots to the east and west. Various additional site improvements, including utility installation (e.g., electric and water), improved stormwater infrastructure and landscaping, are also proposed.

On March 1, 2012, the Town Board of the Town of Islip granted a change of zone for subject property from Residential Redevelopment District to Downtown Development District. The proposed development of the subject property, as described above, is subject to a Declaration of Covenants and Restrictions (C&Rs) (see Appendix A).

An outline of the required public benefits included in the C&Rs follows:

- The applicant/owner will maintain the existing public parking area in the eastern portion of the subject property as well as the municipal parking lot on the southwest corner of Maple Avenue and Gibson Street. This includes replacement of light poles with decorative lighting and installation of landscaping. Applicant will be responsible for snow removal in the parking lot to the east and the Town will be responsible for snow removal in the municipal parking lot to the west. Applicant will keep parking lots free of litter, debris and graffiti.
- All exterior mechanical equipment will be screened from public view and for sound attenuation purposes.
- Parking on ground level will be hidden from view from the street through the use of architectural elements such as columns and walls in materials, which match the exterior of the upper floors of the building.
- Street trees and a grass strip will be provided along Gibson Street and Maple Avenue adjacent to the subject property.
- Plantings will be installed and permanently maintained on the Town-owned parking lots to the east and west of the subject property.
- The Applicant/owner will replace existing lights with decorative lights within the public parking areas to the east and west of the subject property.
- The Town will enforce its prohibition on overnight parking. However, residents, through a sticker program, will be allowed to park overnight.
within the Town-owned parking lots. Residents and guests will be required to park on the site or in the adjacent Town lots. Spillover parking associated with the use of the property onto the right-of-way of Maple Avenue and Gibson street is prohibited.

- The use of non-natural and chemical fertilizers and/or pesticides is prohibited on the subject property. Existing plantings will be maintained if in good conditions and native species replanting will be provided, with alternative encouraged.

- The applicant/owner will complete streetscape improvements along Maple Avenue and Gibson Street adjacent to the subject property and public parking areas to the east, as well as along the Maple Avenue and Gibson Street frontages of the public parking lots across the street from the subject property to the west. Such improvements will include the repair of curbs and sidewalks, as well as the installation of brick pavers, decorative lights and landscaping.

- All lighting will be positioned or shielded to illuminate only the subject parcels.

- The applicant/owner will provide a kiosk and/or ground floor display on the subject property which details the historical use of the property.

- In lieu of 20 percent affordable housing units within the project, the applicant/owner will be required to pay a mitigation fee of $250,000, as discussed below.

See Appendix A for the complete listing of the C&Rs required as part of the proposed Maple Avenue Lofts development.

The total project cost estimated by the applicant is $22,950,000. This figure includes the land cost, site preparation costs, construction costs for the building and parking garage, and soft costs.

The purpose of this report is to evaluate the Project with respect to the general guidelines and standards regarding public benefit for IDA approval of certain benefits (i.e., Sales Tax Exemption, Mortgage Recording Tax Exemption and Payment-in-Lieu-of-Taxes (PILOT)). Specifically, the socioeconomic and community benefits and need for the Project, including economic activity during the construction phase and the purchasing power of Project residents, are evaluated.
Site Location
11 Maple Avenue
Hamlet of Bay Shore, Town of Islip
Suffolk County

Sources: Bing Maps, NYS Civil Boundaries, NYS Office of Information Technology Services GIS Program Office (GPO)
1.1 Comprehensive Planning Documents

The Project's consistency with relevant comprehensive planning documents is summarized below.

Greater Bay Shore NY Rising Community Reconstruction Plan (2014)

The Greater Bay Shore NY Rising Community Reconstruction Program (the NYRCR Program) was completed in March 2014 as a community-driven planning initiative aimed at addressing future risks and increased resiliency within the Greater Bay Shore area. The NYRCR Program was launched as a result of the impact Hurricane Irene, Tropical Storm Lee, and Superstorm Sandy had on the 102 storm-impacted locations throughout New York State. The NYRCR Program outlines strategies and projects categorized by their Recovery Support Functions (RSF). RSF's are used to identify, coordinate, and ultimately deliver assistance to the Greater Bay Shore community from various sources of funding. Specifically, the "Housing" RSF notes,

The introduction of mixed-use development in areas where commercial uses co-exist with residential uses, as appropriate (first-floor retail with apartments above) should be further explored. This type of development has been increasing in Downtown Bay Shore and has had a positive impact. Further development of this type of housing would help to attain the two-fold purpose of increasing the housing supply outside of what is typically considered to be a flood prone area and to promote a walkable and compact form of development (Section II, page 64).

Consistent with the "Housing" RSF, the Project aims to provide a mixed-use development outside of the flood zone, thereby promoting walkability in a compact form of development. The proposed mixed-use development is within walking distance of the Fire Island Ferry terminal, Bay Shore Train station, Northwell Southside Hospital, and the Bay Shore shopping and restaurant district. This will be accomplished by constructing a new mixed-use building on an underutilized property, adjacent to downtown Bay Shore to attract new retail tenants and provide 90 residential rental apartments. It should be noted that the Town Board of the Town of Islip granted a change of zone for subject property from Residential Redevelopment District to Downtown Development District to allow the construction of a mixed-use building.

Town of Islip Comprehensive Plan (1979)

The Town of Islip Comprehensive Plan (Volume 7A, Bay Shore, the "1979 Comprehensive Plan") was originally intended to guide the Town's "decision-makers" in assessing the most appropriate future development for Bay Shore. The plan addressed local issues, including the decline of the downtown business district and the need for a diversification of the local economy. A program for revitalization was prepared, which included infrastructure development (parking, access roads, and sewers), storefront façade and streetscape improvements, expansion of
opportunities to open up underutilized waterways to public access, and a program of zoning incentives to encourage the development of higher density housing and mixed uses.

The 1979 Comprehensive Plan provides a list of long-term objectives for housing development to satisfy the needs of all age groups, lifestyles and income levels. This list includes, but is not limited to, the following:

- To offer a variety of housing types.
- To develop new housing densities which allow high levels of amenities.
- To encourage pedestrian access from residential areas to commercial and recreational areas (page 29).

As the subject property is south of Montauk Highway (by one block), the 1979 Comprehensive Plan recommends higher density housing to be located closer to the Montauk Highway commercial area. Additionally, townhouses and garden style housing are recommended within Area IV, within which the subject property is located.

As there is a commercial component to the Project, the relevant commercial objectives provided in the 1979 Comprehensive Plan are as follows:

- To group commercial activities into walking configuration, encouraging a mixture of land uses.
- To develop non-commercial activities that will support businesses, add activity and provide a labor supply (page 67).

Consistent with the recommendations outlined in the 1979 Comprehensive Plan, the Project includes the redevelopment of an existing property that currently contains a portion of a municipal parking lot and vacant land (that formerly housed a small hospital and then a single-room occupancy with fire hazards, drug dealing and constant police presence until its demolition occurred over ten years ago). The construction of a new four-story building with improved landscaping and 1,853 sf of retail space would attract new retail tenants, and would increase customer activity within the new commercial space. The Project also provides 90 new residential rental apartments, thereby advancing the downtown development of a compact, mixed-use configuration. The new rental apartments would also support existing businesses, provide additional activity in Bay Shore, as well as offer a variety of housing options and support pedestrian access to commercial uses on Main Street, as encouraged by the 1979 Comprehensive Plan.

Town of Islip Comprehensive Plan Update (2011)

In 2011, the Town of Islip updated its 1979 Comprehensive Plan to address the demographic changes that had occurred in the Town during the intervening years. While the goals outlined in the 1979 Comprehensive Plan remain, the Town of Islip Comprehensive Plan Update (2011) (Comprehensive Plan Update) aims to respond to the recent and future challenges within the Town. The Comprehensive Plan Update
notes that while single-family homes continue to be the predominant housing option in the Town, demographic trends have led to an increase in diversified housing options. It is noted in the Comprehensive Plan Update that Bay Shore averaged approximately 200 new residents per year between 2000 and 2010, or roughly a 10 percent increase over the decade. The growth for the Town of Islip over the same period was approximately 4 percent. Additionally, the Comprehensive Plan Update notes that rental apartments only account for approximately 10.1 percent of the overall housing stock in the Town of Islip. The Project responds to these trends by providing a housing product—i.e., rental apartments, for which there is a well-established need, as documented in the trend analysis in the Comprehensive Plan Update.

Suffolk County Comprehensive Master Plan 2035 (2015)

The Suffolk County Comprehensive Master Plan 2035: Framework for the Future (Suffolk 2035 Plan), adopted by the Suffolk County Legislature on July 28, 2015, represents the final part of a planning effort that was initiated in 2011 with the publication of an inventory of data relating to demographics, the economy, and quality of life in Suffolk County. The Suffolk 2035 Plan is guided by six key priorities:

1. Build a 21st Century Transit Network to Provide More Transportation Choices to Improve Mobility, Access, and Safety
2. Providing Equitable, Affordable, Fair Housing
3. Enhance Economic Competitiveness and Capacity to Build an Innovative Economy
4. Support Vibrant Communities
5. Streamline Government, Coordinate Policies, and Leverage Investment
6. Protect the Environment and Enhance Our Human Capital

It is noted in the Suffolk 2035 Plan that demographic changes in Suffolk County over the past two decades have created a housing demand that includes a higher proportion of smaller, multi-family family units, a higher proportion of rental units, and more affordable units. Consistent with recommendations outlined in the Suffolk 2035 Plan, the Project includes the redevelopment of a property to provide a modern, mixed-use development on an underutilized site with 90 residential rental apartments in a range of sizes (i.e., 45 one-bedroom, 27 two-bedroom, and 18 studio units). While no affordable units are proposed within the Project, it is noted that development of the subject property is subject to a Declaration of Covenants and Restrictions (see Appendix A), which, among other things, specifies that

[In lieu of providing 20% of the units within the project as “affordable”, the applicant/owner shall be required to pay a mitigation fee of $250,000... Said funds shall be used by the Town of Islip in conjunction with the Long Island Housing Partnership, Town of Islip Community Development Agency or similar entity to fund affordable housing initiatives within Bay Shore hamlet. (Item 11)]
As such, the Project will aid in the development of affordable housing by increasing the rental housing supply and financially contributing to affordable housing initiatives in the hamlet of Bay Shore.

The Suffolk 2025 Plan also notes that while private sector employment has increased throughout the County, not all sectors of employment have experienced the same growth. Specifically, the Suffolk 2025 Plan states that “the County is losing high paying jobs and replacing them with lower skill and wage jobs”. As described in Anticipated Benefits of the Project, below, implementation of the Project would create a total of approximately 17 jobs (direct, indirect and induced) during operations and support approximately 145 jobs during construction. Further, the Project would generate approximately $8.6 million in annual income during construction, with an average salary of approximately $58,000, and approximately $564,000 in annual income during operations, with an average salary of approximately $32,000, according to the IMPLAN analysis. As the subject property is currently vacant, all jobs would be new to the area. As indicated in Anticipated Benefits of the Project, the average operational salary generated by implementation of the Project would be approximately equal to the Town of Islip’s per capita income.

In addition, the proposed mixed-use building is within walking distance of the Bay Shore LIRR station, which expands the transportation choices of the future residents of the Maple Avenue Lofts. Further, the Project will enhance the revitalization of Bay Shore into a vibrant downtown.

1.2 Rental Housing Trends and Data

The current need for rental housing on Long Island is well documented. As set forth in the 1979 Comprehensive Plan, “[n]ew multi-family housing should contain predominantly one and two-bedroom units to relate to the housing needs of young singles, starter families, mature couples and senior citizens.” (page 31). The Project is consistent with this recommendation, by providing 18 studios, 45 one-bedroom and 27 two-bedroom rental units.

A 2013 report by the Regional Planning Association (RPA), Long Island’s Rental Housing Crisis (LI Rental Housing),1 points to a number of trends in the Long Island housing market, noting that “[t]he shortage of affordable rental homes is already straining Long Island’s economy, and will make it much harder to compete for jobs in the years ahead” (page 3). The key trends and statistics mentioned in LI Rental Housing include the following:

- Long Island’s 4.3% rental vacancy rate means that there are fewer available rental homes than in any other suburban area in the New York region.
- 56% of renters pay more than 30% of their income for housing.

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64% of Long Island renters cannot afford a typical two-bedroom apartment.

- 55% of 20- to 34-year-olds live with their parents or older relatives.
- Over a quarter of all the rental homes on Long Island are concentrated in 10 communities.
- Every 100 new units of rental housing generated 22 local jobs, $2.2 million in income and $395,000 in tax revenue annually.
- Actions should be taken at all levels of government to create new homes that both meet community needs and relieve the rental housing crisis.

With respect to supply, rental options are not plentiful on Long Island. The 2015 American Community Survey shows that only 20 percent of occupied housing units on Long Island are rentals. For the most part, Suffolk County ranks far behind neighboring metropolitan area counties with respect to the percentage of occupied rental housing units, as shown in Table 1 below. In fact, only Nassau County and the more rural Putnam County have a lower percentage of rental units.

### Table 1

<table>
<thead>
<tr>
<th>County</th>
<th>Percentage of Rental Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suffolk County, NY</td>
<td>20.5</td>
</tr>
<tr>
<td>Nassau County, NY</td>
<td>19.7</td>
</tr>
<tr>
<td>Hudson County, NJ</td>
<td>18.7</td>
</tr>
<tr>
<td>Essex County, NJ</td>
<td>15.5</td>
</tr>
<tr>
<td>Westchester County, NY</td>
<td>18.5</td>
</tr>
<tr>
<td>New Haven County, CT</td>
<td>37.2</td>
</tr>
<tr>
<td>Bergen County, NJ</td>
<td>35.2</td>
</tr>
<tr>
<td>Fairfield County, CT</td>
<td>32.7</td>
</tr>
<tr>
<td>Dutchess County, NY</td>
<td>30.9</td>
</tr>
<tr>
<td>Rockland County, NY</td>
<td>31.1</td>
</tr>
<tr>
<td>Putnam County, NY</td>
<td>18.0</td>
</tr>
</tbody>
</table>


Further, the demand for rentals is increasing. Since its peak at 10.6 percent in 2010, the rental vacancy rate has fallen across the United States to an average of 7.5 in the third quarter of 2017, indicating that, nationally, the demand for rental units is increasing in relation to supply. The 2015 American Community Survey five-year estimates show that the rental vacancy rate in Suffolk County was 4.6 percent, and the rental vacancy rate in the Town of Islip was 4.0 percent. If the vacancy rate in this area has followed the national trend, it is likely that there are even fewer available
rental units today; and thus, it is anticipated that the Project will provide a much-needed housing type to the area.

1.3 Comparable Rental Developments

The Suffolk County Department of Economic Development and Planning (SCDEP) gathers information on apartment complexes with 10 or more units either existing or currently under construction in the County. According to SCDEP data, in the Town of Islip, there are approximately 112 apartment complexes with a total of 10,965 units (including those that were under construction at the time of publication). Thirty-nine of these apartment complexes, with a total of 1,903 units, are in the Bay Shore area. Of the 39 apartment complexes in the Bay Shore area, 34 are non-age-restricted (1,323 total units). These 34 complexes are expected to serve a similar population as the Project. In providing 30 non-age-restricted rental apartments, the Project will increase Bay Shore's non-age-restricted rental housing stock by approximately 7 percent.

Anticipated Benefits of the Project

2.1 IDA Evaluation Criteria

The IDA evaluates projects seeking benefits pursuant to the guidelines in its Uniform Tax Exemption Policy (UTEP). The Project is eligible to apply for a Real Property Tax Exemption pursuant to Section 1A.7 of the UTEP as it is a mixed-use project in a Downtown Development District. As the Project is seeking a Sales Tax Exemption, Mortgage Recording Tax Exemption, and a PILOT Agreement from the IDA, it is subject to the following guidelines to determine eligibility for such relief (Attachment 1):

1. **Economy**: Local and regional economic conditions at the time of application.

The Town of Islip has long considered revitalization of the downtown Bay Shore business district and the need to diversify and strengthen the local economy a planning priority, dating back to the original 1979 Comprehensive Plan. Since the 1979 Comprehensive Plan, the Town has seen some progress with a number of mixed-use developments being built over the years; however, this initiative is ongoing. The Project will contribute to the economic vitality in the Bay Shore downtown area by providing new opportunities for businesses on the ground level of the proposed mixed-use building. The 90 rental apartments on the first, second and third stories of the building will provide an expanded customer base for other

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local downtown merchants and continue the promotion of a more walkable downtown. As noted, the Maple Avenue Lofts are located within walking distance of the Bay Shore shopping and restaurant district, as well as Northwell Southside Hospital, the Bay Shore train station and the Fire Island Ferry terminal.

It is estimated that the median household income in Bay Shore is $70,229, as compared to a median household income in Suffolk County estimated at $88,663.\(^3\) With a median household income in Bay Shore that is only about 75 percent of the median household income in Suffolk County, indicating a prevalence of lower-paying jobs for residents in Bay Shore, there is a need for more affordable housing options to serve local residents. No affordable units are proposed as part of the Maple Avenue Lofts; instead, the Applicant will pay a $250,000 mitigation fee which will be used by the Town of Islip Community Development Agency (or similar entity) to fund affordable housing initiatives in Bay Shore (see Declaration of Covenants and Restrictions in Appendix A).

2. Jobs: The extent to which the project will directly create or retain permanent private sector jobs as well as "temporary" jobs during the construction period. In addition, the level of secondary "multiplier" jobs that will be created or retained as a result of the project.

VHB conducted an analysis of the jobs projected to be generated in the zip codes comprising the Town of Islip by the Project using the IMPLAN software tool. This analysis was conducted for both construction period and the operation of the Project. For the construction period, the inputs to the tool included the anticipated costs for the residential ($15,043,000±) and retail ($307,000±) aspects of the Project, or a total of $15,350,000±.\(^4\) Based on these inputs, and with an anticipated 18-month construction period beginning in the spring of 2018, the Project is expected to support approximately 145 total jobs during the construction phase. These jobs are broken down as follows:

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\(^1\) U.S. Census Bureau, 2011-2015 American Community Survey 5-Year Estimates.
\(^2\) Construction costs are based on information provided by the Applicant in its Application for Financial Assistance, dated November 14, 2017, and Site Plan, dated January 15, 2016. Such costs do not contain the land costs or soft costs.

12 Anticipated Benefits of the Project
Table 2  Employment Impact (Construction Phase)\(^2\)

<table>
<thead>
<tr>
<th>Impact Type</th>
<th>Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct Effect(^3)</td>
<td>84.3</td>
</tr>
<tr>
<td>Indirect Effect(^4)</td>
<td>33.0</td>
</tr>
<tr>
<td>Induced Effect(^5)</td>
<td>28.3</td>
</tr>
<tr>
<td>Total Effect</td>
<td>145.6</td>
</tr>
</tbody>
</table>

The analysis of the Project upon completion of construction (i.e., operational phase) is based upon an assumption that the commercial component of the Project would directly generate five jobs\(^12\) and projections that net operating income (NOI) of the project (i.e., gross operating income less operating expenses) would be approximately $1,117,535. Using the NOI as the input for the IMPLAN model produces a conservative estimate of economic impacts that accounts for various maintenance expenses.

The results of the employment analysis for the operational phase of the Project are as follows:

Table 3  Employment Impact (Operational Phase)\(^1\)

<table>
<thead>
<tr>
<th>Impact Type</th>
<th>Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct Effect</td>
<td>12.6</td>
</tr>
<tr>
<td>Indirect Effect</td>
<td>3.0</td>
</tr>
<tr>
<td>Induced Effect</td>
<td>1.9</td>
</tr>
<tr>
<td>Total Effect</td>
<td>17.5</td>
</tr>
</tbody>
</table>

Thus, it is estimated that the Project has the potential to create a total of approximately 17 jobs during operations and support approximately 145 jobs during

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\(^1\) IMPLAN does not provide analytics for mixed-use developments. Accordingly, Sector 60 - Construction of new multifamily residential structures and Sector 57 - Construction of new commercial structures, including farm structures, were analyzed, and a sum is provided.

\(^2\) Direct Effect is a series of (or single) production changes or expenditures made by producers/consumers as a result of an activity or policy. These initial changes are determined by an analyst to be a result of this activity or policy (i.e., construction jobs directly related to on-site activity).

\(^3\) Indirect Effect is the impact of local industries buying goods and services from other local industries (i.e., jobs created from construction-related expenditures).

\(^4\) Induced Effect is the response by an economy to an initial change (direct effect) that occurs through re-spending of income by a component of value added. Money is recirculated through the household spending patterns causing further local economic activity (i.e., jobs created through household spending of income from direct jobs).


\(^1\) IMPLAN does not provide analytics for mixed-use developments. Accordingly, Sector 405 - Retail (General merchandise stores) and Sector 440 - Real estate, were analyzed, and a sum is provided.

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13  Anticipated Benefits of the Project
construction. The project site is currently vacant; therefore, all operational phase jobs would be new to the area.

3. **Project Cost/Payroll**: Level of direct annual payroll that results from the project as well as secondary “multiplier” payroll and payroll during the initial construction period.

The IMPLAN analysis also includes projections of the impact on income from jobs that are anticipated to be created by the Project. This includes income from direct, indirect and induced jobs. The results of this analysis, for both the construction and operational phases of the Project are as follows:

### Table 4  Labor Income for Jobs Generated During Construction

<table>
<thead>
<tr>
<th>Impact Type</th>
<th>Employment</th>
<th>Labor Income</th>
<th>Average Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct Effect</td>
<td>84.3</td>
<td>$5,205,365</td>
<td>$61,748</td>
</tr>
<tr>
<td>Indirect Effect</td>
<td>33.0</td>
<td>$1,812,049</td>
<td>$56,023</td>
</tr>
<tr>
<td>Induced Effect</td>
<td>28.3</td>
<td>$1,417,689</td>
<td>$50,095</td>
</tr>
<tr>
<td>Total Effect</td>
<td>145.6</td>
<td>$8,435,104</td>
<td>$57,933</td>
</tr>
</tbody>
</table>

### Table 5  Labor Income for Jobs Generated During Operation

<table>
<thead>
<tr>
<th>Impact Type</th>
<th>Employment</th>
<th>Labor Income</th>
<th>Average Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct Effect</td>
<td>12.6</td>
<td>$320,190</td>
<td>$25,412</td>
</tr>
<tr>
<td>Indirect Effect</td>
<td>3.0</td>
<td>$148,491</td>
<td>$49,497</td>
</tr>
<tr>
<td>Induced Effect</td>
<td>1.9</td>
<td>$95,722</td>
<td>$50,375</td>
</tr>
<tr>
<td>Total Effect</td>
<td>17.5</td>
<td>$564,393</td>
<td>$32,251</td>
</tr>
</tbody>
</table>

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14 IMPLAN does not provide analytics for mixed-use developments. Accordingly, Sector 60 -- Construction of new multifamily residential structures and Sector 57 -- Construction of new commercial structures, including farm structures, were analyzed, and a sum is provided.

15 IMPLAN does not provide analytics for mixed-use developments. Accordingly, Sector 405 -- Retail (General merchandise stores) and Sector 400 -- Real estate, were analyzed, and a sum is provided.
As demonstrated in Table 4 and

Table 5 above, the Project would generate approximately $8.4 million in payroll income for all jobs (direct, indirect and induced) during construction, with an average salary of approximately $58,000. During Project operations, the Project would generate approximately $564,000 in income for all jobs (direct, indirect and induced), with an average salary of approximately $32,000, based on IMPLAN.

As the subject property is currently vacant, the Project would generate approximately $564,000 in new payroll income during Project operations. This increase in income related to Project operations, as well as 100 percent of the $8.4 million in payroll income to be generated during Project construction, would be entirely new to the Town of Islip. Data from the American Community Survey (2011-2015 five-year estimates) indicate that the per capita income in the Town of Islip is approximately $32,425. Thus, salaries generated by the Project operations would be approximately equal to the Town of Islip’s per capita income.

With respect to residential household spending, based on 90 proposed residential rental units and the estimated median disposable household income of residents in the Town of Islip of $64,052, it is estimated that aggregate annual household spending from the Project will total approximately $5.8 million, a portion of which would be spent locally.

4. **Project Purpose:** Type of industrial or commercial activity proposed for the facility.

As part of the Project, approximately 1,853 sf on the ground level would be dedicated commercial space (with uses permitted within the Downtown Development District) and would attract retail tenants to the subject building. Furthermore, the proposed redevelopment of the site with an attractive new building and landscaping and parking improvements may serve to encourage similar revitalization at other underutilized commercial properties.

5. **Site Alternatives:** Likelihood that the project will locate elsewhere resulting in subsequent real economic losses for retention projects and possible failure to realize future economic benefits for attraction projects.

The Project aims to redevelop an existing property containing a portion of a municipal parking lot and vacant land to attract commercial and residential tenants within downtown Bay Shore. Development of the subject property will attract commercial and residential tenants who would otherwise locate elsewhere.

As previously noted, implementation of the Project would generate approximately $8.4 million in payroll income during construction and approximately $564,000 in...
payroll income during operations. Without significant investment in the subject property, income that would be generated as a result of implementation of the Project would be diverted elsewhere, potentially outside of the Town of Islip.

Additionally, the proposed building would provide rental apartment space needed in the Greater Bay Shore area and the Town of Islip. By providing additional rental housing options (which are limited in the area), the Project will aid the Town of Islip and the region in allowing middle class residents to stay, rather than move away, thus maintaining Project-related economic benefits of residential spending, estimated at approximately $5.8 million.

6. Project Location: Nature of the property before the project (vacant land, vacant buildings, distressed community, Former Empire Zone, blighted property, downtown corridor).

The subject property is comprised of one tax parcel, identified on the Suffolk County Tax Map as District 500 – Section 393 – Block 4 – Lot 26.10. The subject property currently contains a portion of a municipal parking lot and vacant land. However, the vacant parcel formerly housed a small hospital and then a single-room occupancy with fire hazards, drug dealing and constant police presence until its demolition occurred over ten years ago.

The municipal parking lot west of the subject property to be modified is comprised of three parcels, known on the Suffolk County Tax Map as District 500 – Section 419 – Block 4 – Lots 36, 37 and 38. The municipal parking lot east of the subject property to be modified comprises three parcels, known on the Suffolk County Tax Map as District 500 – Section 393 – Block 4 – Lots 24.3, 25.3 and 26.8.

The Project will upgrade the subject property as it will convert existing vacant land into a four-story mixed-use building with both commercial and residential uses, thereby advancing the ongoing revitalization efforts of the Bay Shore downtown corridor through the productive redevelopment of an underutilized property, consistent with this IDA evaluation criterion. As discussed earlier the Town Board of the Town of Islip granted a change of zone for subject property from Residential Development District to Downtown Development District, to allow the construction of a mixed-use building on March 1, 2012. This approval is contingent upon criteria listed in the Declaration of Covenants and Restrictions (e.g., maximum of 90 residential units which shall not exceed 1,275 square feet, and a minimum of 1,800 square feet of commercial space will be provided on the ground floor area).

7. Project Benefits: Amount of private sector investment as a result of the project and the level of additional revenue for local taxing jurisdictions.

As previously noted, implementation of the Project would generate approximately $8.4 million in payroll income for all jobs during construction and an additional $564,000 in payroll income for jobs during operations.

Currently, the portion of the subject property to be developed with the mixed-use building is vacant. Without redevelopment, the subject property would continue to be underutilized. As such, the proposed mixed-use building has been designed to
attract new commercial and residential tenants that would that would otherwise locate elsewhere. The four-story building would be an attractive addition to the downtown Bay Shore area, and new landscaping and sidewalk and parking lot improvements, which the applicant is substantially investing in, would enhance the area in the immediate vicinity of the subject property. The lower level parking would not be visible to the surrounding community, as the C&Rs require that the parking be screened by architectural elements reflective of the upper-story architecture. This required screening, as well as the significant improvements, described above are costly and would add significantly to the project costs. Additionally, the redevelopment of the subject property with 90 residential rental apartments would provide a much-needed housing option for a portion of the population that would otherwise relocate elsewhere, where new residents in downtown Bay Shore would provide additional private sector economic stimulus to downtown businesses. As noted above, anticipated aggregate household spending from the Project is approximately $5.8 million, a portion of which would be spent locally.

Finally, the applicant estimates the total project costs at $22,950,000 (including soft costs, land costs, site preparation costs and construction costs), which is a significant investment in the Bay Shore community and Town of Islip.

8. Project Costs: Impact of the project and the proposed abatements/extension on local taxing jurisdictions and extent to which will require additional services from local government entities.

According to factors published in the Rutgers University, Center for Urban Policy Research, Residential Demographic Multipliers – Estimates of the Occupants of New Housing (2008), it is anticipated that the Project, with 18 studios, units, 45 one-bedroom units and 27 two-bedroom units, would generate approximately nine school-aged children who are expected to attend public school.\textsuperscript{12}

The subject property is located within the Bay Shore Union Free School District (UFSD). Based on publicly-available resources from the New York State Education Department (NYSED), the total district enrollment for the Bay Shore UFSD was 6,020 students for the 2017-2018 school year. The total adopted budget for the 2017-2018 school year was $151,988,797 (of which approximately 68.6 percent, or $104,247,009 was from the local property tax levy).\textsuperscript{15} The total budgeted expenditure per pupil for the 2017-2018 school year was approximately $25,247. The total budgeted cost per

\textsuperscript{12} Rutgers University, Center for Urban Policy Research, Residential Demographic Multipliers – Estimates of the Occupants of New Housing (2008). Factors for all public school children: School-Age Children in Public School (PSAC): 5 = Units Rent, 1 Bedroom, Values > $1,000 = 0.07 PSAC per unit. 5 = Units Rent, 2 Bedrooms, Values > $1,100 = 0.10 PSAC per unit. It is noted that as the Rutgers University study does not include a factor for studio units, the factor for 1 Bedroom units was used.

\textsuperscript{15} New York State Education Department, New York State Property Tax Report Card (accessed November 2017); available from

http://www1.ed.state.ny.us/realtaxedft/rtcard4.html

17 Anticipated Benefits of the Project
student based on the local property tax levy was approximately $17,317. While the average total per-pupil cost is a useful metric for certain tasks, such as overall district budgeting, it is not appropriate for evaluating the marginal cost of educating a new student. This is because the average cost includes administrative and capital expenditures that are not affected by the introduction of new students (e.g., superintendent salary, debt service, etc.). Instructional expenditures provide a more accurate assessment of the cost of educating additional students generated by new residences. The instructional expenditure per general education student for the Bay Shore UFSD was $13,115 for the 2014-2015 school year (the most recent year for which such data are available). However, as above, only a portion of this cost is currently paid for from the local property tax levy. The portion of the program costs paid by the local real estate property tax (based on a 68.6 percent ratio) is estimated to be approximately $6,995 per pupil.

As the subject property does not currently contain any residential uses, no school-aged children reside at the site. Upon implementation of the Project, the first, second and third floors of the proposed building would contain rental apartments, which would result in a permanent population on the site of approximately 231 people (including public school-aged children). The addition of approximately nine school-aged children would represent an approximate 0.15 percent increase over the 2017-2018 public school enrollment of 6,020. Added to the 2017-2018 enrollment, the addition of nine school-aged children would result in a total enrollment of 6,029.

Based on the 2014-2015 estimated instructional expenditure per general education student for the Bay Shore UFSD of $13,115, the Project's total impact on the Bay Shore UFSD is projected to be approximately $118,035. Based on the portion of the program costs paid by the local real estate property tax of approximately $8,995 per pupil, the impact would be approximately $80,955. Even with the proposed PILOT, the Project would generate some amount of revenue for the Bay Shore UFSD, which would at least partially offset these costs, and potentially would even exceed these costs and result in a net financial benefit. Over time, as the PILOT is phased out and there is a transition to a full property tax assessment, it is expected that a net financial benefit will result for the School District, particularly considering the commercial component of the Project.

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Note that this figure reflects instructional expenditures per general education student in the 2014-2015 school year. Expenditures per special education student were $37,360 during the same school year. In the 2014-2015 school year, 13.2 percent of students in the Bay Shore UFSD were classified with disabilities, and qualified for special education services.


The first level of the building is referenced as the "garage" level, with three floors of residential apartments above.

https://www.bayshore.ny.us/12921/12921_5863.html (American Community Survey 2011-2015, Bay Shore, NY - persons per household in renter-occupied units (2.57)).
Conclusions

For various reasons discussed above, there currently is a high demand for rental housing in the Town of Islip and the Greater Bay Shore area. As demonstrated by Census data, rental options are not plentiful on Long Island. In fact, the availability of rental housing on Long Island lags behind other metropolitan counties, even as demographic shifts have led to a higher demand for diversified housing options.

The Project would be consistent with identified goals, objectives and priorities in the NYRCP Program, the 1979 Comprehensive Plan, the Comprehensive Plan Update, and the Suffolk 2035 Plan. Even as far back as the 1979 Comprehensive Plan, the need for additional rental housing and mixed-use developments in existing commercial and downtown areas has been advocated. The Town of Islip has advanced this goal by updating its Zoning Code to encourage the creation of mixed-use developments, of the type which will be provided by the Project. As previously indicated, the Town Board of the Town of Islip has granted a change of zone for subject property from Residential Redevelopment District to Downtown Development District, to allow the construction of a mixed-use building. Moreover, the Project will add a type of housing that is in high demand throughout the Town of Islip and Long Island, as indicated by the low vacancy rates identified in Census data. By providing 90 residential rental units, including studio, one- and two-bedroom units, the Project will cater to residents of varying family sizes, and will enable middle-class residents within the Greater Bay Shore area and the Town of Islip to remain close to home, rather than leave the region.

An IMPLAN analysis was undertaken to evaluate the anticipated employment and economic benefits of the Project during construction and operational phases. This
analysis indicates that the Project would support a total of approximately 145 jobs (including direct, indirect and induced jobs) during the 18-month construction period, with a total labor (payroll) income of approximately $8.4 million. Further, it is estimated that the operational phase of the Project upon completion of construction would generate a total of approximately 17 jobs (including direct, indirect and induced jobs), with a total labor (payroll) income of approximately $564,000.

Additionally, household spending by Project residents is estimated at approximately $5.8 million, a portion of which would be spent locally. In addition, the applicant/owner, in lieu of providing affordable housing on site has agreed to pay a mitigation of $250,000 to be used by the Town of Islip in conjunction with the Long Island Housing Partnership, Town of Islip Community Development Agency or similar entity to fund affordable housing initiatives within Bay Shore hamlet.

In addition, the applicant estimates the total project costs at $22,950,000, which is a significant investment in the Bay Shore community and Town of Islip.

Based on the analysis presented in this report, the Project is consistent with the guidelines and criteria of the IDA UTEP, and would result in public benefits related to affordable/diversified housing and employment, downtown revitalization, and would also result in direct and indirect economic benefits to the Bay Shore downtown and the Town of Islip.
Appendix A
DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION, made and dated the 1st day of March 2012 by Eleven Maple Avenue Associates, LLC, Pace Cove, with offices at 1555 Sunrise Highway, Suite 9, Bay Shore, New York 11706 (an LLC duly created, organized and existing under and by virtue of the laws of the State of New York, having its principal place of business at 1555 Sunrise Highway, Suite 9, Bay Shore, New York) hereinafter referred to as the Declarant

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of the following described real property:

All that certain plot or parcel of land situated in and being in Bay Shore, Town of Islip, Suffolk County and State of New York being more particularly bounded and described as follows:

Beginning at the intersection of the easterly side of Maple Avenue with the southerly side of Gibson Street.

Thence the following nine courses and distances:

1. Course: North 03 degrees 49 minutes 25 seconds East a distance of 21.32' feet.
2. Course: North 49 degrees 30 minutes 50 seconds East a distance of 194.59' feet.
3. Course: North 36 degrees 55 minutes 36 seconds East a distance of 140.15' feet.
4. Course: South 37 degrees 51 minutes 04 seconds East a distance of 180.91' feet.
5. Course: North 52 degrees 08 minutes 56 seconds East a distance of 15.67' feet.
6. Course: South 40 degrees 19 minutes 10 seconds East a distance of 51.11' feet.
7. Course: South 47 degrees 47 minutes 18 seconds West a distance of 102.61' feet.
8. Course: South 46 degrees 05 minutes 46 seconds West a distance of 49.47' feet.
9. Course South 47 degrees 15 minutes 40 seconds West a distance of 201.62 feet to the easterly side of Maple Avenue.

Thence along the easterly side of Maple Avenue North 40 degrees 30 minutes 00 seconds West a distance of 201.28' feet to the intersection of the easterly side of Maple Avenue with the southerly side of Gibson Street to the point or place of Beginning.

And

TAX MAP NUMBER: 0500-393-4-26.10
DATE OF GRANT: MARCH 1, 2012
TAX MAP NUMBER: 0500-393-4-26.10
DATE OF GRANT: MARCH 1, 2012

WHEREAS, a public hearing was held on the 1st day of March 2012, by the Town Board of the Town of Islip, a municipal corporation of and in the County of Suffolk, State of New York, upon the application of the Declarant, made pursuant to Sections 264 and 265 of the Town Law to change the zoning classification of the above described real property from Residential Redevelopment District to Downtown Development District, along with a modification of deed covenants and restrictions associated with TC 4771 in order to construct a mixed use building. Parking and landscaping relaxations are also requested as part of this application.

WHEREAS, at the conclusion of the said hearing and after due deliberation having been had thereon, the said zoning change was approved by the said Town Board (TC # 5080):

And

WHEREAS, the Declarant deems it advisable and for the best interests of himself (or itself) and for the Town of Islip as a whole that certain covenants and restrictions be placed upon the said real property with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the said Town of Islip.

NOW THEREFORE, in consideration of the premises, the Declarant declares as follows:

A. Filing of the Declaration of Covenants and Restrictions within the next ninety (90) days subject to full compliance with the Town of Islip Ordinance and any other ordinance or regulation of the Town of Islip, County of Suffolk, State of New York, that may apply, according to the following:

DEED COVENANTS AND RESTRICTIONS

1. Pursuant to Islip Town Code Section 68-180.3[D] and Section 68-180.6, the Town Board hereby finds that the provision of certain public amenities, described herein, by the applicant shall be a justifiable cause to change the zone of the subject property to the Downtown Development District.

2. A change of zone from Residential Redevelopment District to Downtown Development District is hereby granted. The use of the subject property shall be limited a mixed use building with a total maximum Floor Area Ratio of 2.5, to be further restricted by the following:
a. A maximum of 90 residential units, all of which shall be a maximum of 2,275 square feet in area. 20% of the units shall be studio apartments, 50% shall be one bedroom apartments, and 30% shall be two bedroom apartments.

b. A minimum of 1,800 square feet of ground floor area to be used for commercial use(s). This area shall be located at the northwest corner of the building, and shall be limited to those uses included in the list of permitted uses for the Downtown Development District as per Town Code Chapter 68-180.4.

3. A modification of deed covenants and restrictions associated with TC #4771 shall be granted as part of this application. All deed covenants and restrictions associated with TC #4771 and all prior Town Board imposed deed covenants shall be deemed null and void and shall be replaced with these.

4. The subject parcel shall be kept neat, clean, graffiti and litter free. Any proposed garbage dumpster shall be located on the subject property as shown on the approved site plan, and shall be enclosed in compliance with the Subdivision and Land Development Regulations. Dumpsters shall be emptied on a regular basis to prevent overflow. The subject site shall be maintained in a neat, clean, and litter free condition.

5. Applicant/owner shall provide regular solid waste collection services to residents of the apartments. Said collection services shall include separation of solid waste into recyclable components, including but not limited to newspapers, corrugated cardboard, ferrous metal, aluminum beverage containers, plastic beverage containers and glass. As part of this requirement, applicant/owner shall provide designated containers for recyclable materials. Said containers shall be regulated in the same manner as garbage dumpsters, including regular servicing and enclosure within a decorative or split faced concrete block enclosure with opaque gates.

6. The use of a public address system shall be prohibited.

7. Applicant/owner agrees to full compliance with the New York State Fire Code including but not limited to, provision of sprinkler systems, fire protection apparatus, and all life-safety requirements. All restrictions contained herein shall not supersede the jurisdiction of the New York State Fire Code. In the cases of dual jurisdiction, the more restrictive requirement shall apply.

8. Outdoor storage and sales shall be prohibited. The following displays may be permitted subject to review and approval of the Planning Department:
   a. Window displays for local businesses, not-for-profit and local artists on the ground floor level of the subject property
   b. Holiday or seasonal displays
9. Applicant/owner agrees to permanently maintain the existing public parking area required in accordance with paragraph 10.c.vi. of these covenants and restrictions, as well as the public parking area at the southwest corner of Gibson Street and Maple Avenue across the street from the subject property. Maintenance shall be defined as routine landscaping and litter clean-up on all surface areas located at both parking areas to the west of the site and to the east of the site. Applicant/owner agrees to replace all existing light poles with decorative lighting and to install landscaping to the satisfaction of the Planning Board, which shall not be unreasonably withheld. Applicant/owner shall also keep said properties clear of litter, debris and graffiti. The Planning Board shall notice the property owner of maintenance deficiencies and shall be solely responsible for the determination regarding adequate maintenance after due notice and public hearing. The Town of Islip shall be responsible for snow removal on the parking area to the west of the site on Gibson and Maple. Applicant owner shall be responsible for snow removal at the parking area that is adjacent to the east of the subject site. Town agrees to enforce its prohibition against overnight parking on the subject parcel along with the town-owned lot to east of the subject parcel and the town-owned lot to the east, with the exception of acknowledging registered sticker program, which stickers would be issued to residents of the subject property. Said program shall be approved by the Planning Department.

10. Prior to the issuance of any building permits or Certificates of Occupancy, there shall be submitted to the Town of Islip Planning Department for review and subject to the approval of the following items. The approved plans shall supersede these plans for the purposes of regulating the subject property.

a. Exterior architectural drawings of the building. The Planning Department shall review said drawings for overall design, color materials, and exterior mechanical equipment. All exterior mechanical equipment shall be totally screened from public view and for sound attenuation purposes. Said architectural elevations shall be in substantial conformance to the graphic booklet prepared by Looney Ricks Kiss Inc. and dated revised February 2012. Said plan shall also show the following design elements:

i. All exterior mechanical equipment shall be screened from public view and for sound attenuation purposes.

ii. Building(s) shall be designed to meet the minimum requirements of Sections 4 through 7 of ASHRAE Standard 62.1-2007, Ventilation for Acceptable Indoor Air Quality or the New York State Mechanical Code, whichever is more restrictive.

iii. Parking on the ground level of the proposed building shall be hidden from view from the street through the use of architectural elements
such as columns and walls in materials which match the exterior of the upper floors of the building.

iv. A landscaped courtyard area shall be provided for residents of the apartments on a portion of rooftop area above the ground level parking garage.

A landscaping plan indicating in detail the proposed landscaping treatment in accordance with the Subdivision and Land Development Regulations. Said plan shall be in substantial conformance with the plans prepared by Bollier Engineering revision dated January 9, 2012 and shall indicate the maintenance or installation of native plant species to the greatest extent possible. Said landscaping shall include the following plantings/design elements:

i. Street trees and a grass verge strip shall be provided along Gibson Street and Maple Avenue adjacent to the subject property.

ii. Plantings shall also be installed and permanently maintained on the Town-owned parking lots to the east and west of the subject property. Said plantings shall be in substantial conformance with the aforementioned plan prepared by Bollier Engineering for the lot to the east of the subject property as well as the survey prepared by John Minto and dated December 9, 2011 with annotations by the Planning Department dated received on January 19, 2012 for the lot to the west of the subject property.

iii. All plantings shall be maintained to the satisfaction of the Planning Board and all plant material shall be kept in a healthy well maintained condition. The Planning Board shall notice the property owner of landscaping deficiencies and shall be solely responsible for the determination regarding adequate maintenance after due notice and public hearing. Owner shall be given an opportunity to cure any landscaping situation of the parcel. The owner shall be solely responsible for the cost of the maintenance. In the event owner fails to maintain the landscaping as so directed, the Town of Islip also reserves the right to enter onto the subject parcel and complete the required maintenance and assess all costs associated with same to the applicant/owner’s next tax bill.

c. A site plan showing the improvements specified in the Subdivision and Land Development Regulations including but not limited to: building locations, parking, curbs, sidewalks, curb cuts, landscaping, and drainage. The submitted plans shall be in substantial conformance to those prepared by Bollier Engineering and which revision is dated January 9, 2012. Said plans shall also show the following elements:
i. Minimum building setbacks of 10 feet from Maple Avenue, 7 feet from the southern property line, and 9 feet from Gibson Street.

ii. A minimum of 103 parking stalls shall be provided within the ground floor level of the proposed apartment building. A combined additional 158 stalls shall be provided on the eastern portion of the subject property and the Town owned municipal lot. All of these 158 exterior parking stalls shall be open to the public. Residents only shall be permitted to park overnight based on a registered sticker program to be approved by the Planning Department.

iii. Applicant/owner agrees to replace existing lights with decorative lights within the public parking areas to the east and west of the subject property. Said lights shall be in substantial conformance with the aforementioned plan prepared by Bohler Engineering for the lot to the east of the subject property as well as the survey prepared by John Minto and dated December 9, 2011 with annotations by the Planning Department dated received on January 19, 2012 for the lot to the west of the subject property.

iv. Residents and guests shall be required to park on site or in the adjacent Town lots. Spillover parking associated with the use of the property onto the right-of-ways of Maple Avenue and Gibson Street shall be prohibited.

v. The use of non-natural and chemical fertilizer and/or pesticides shall be prohibited on the subject parcel. Existing plantings shall be maintained if in good condition and native species replanting shall be provided. Alternatives shall be encouraged.

vi. Applicant/owner shall complete streetscape improvements along Maple Avenue and Gibson Street adjacent to the subject property and public parking area to the east, as well as along the Maple Avenue and Gibson Street frontages of the public parking lot across the street from the subject property to the west. Said streetscape improvements shall include repair of curbs and sidewalks as well as installation of brick pavers, decorative lights and landscaping.
11. In lieu of providing 20% of the units within the project as “affordable”, the applicant/owner shall be required to pay a mitigation fee of $250,000. 10% of said fees shall be paid to the Town prior to issuance of a Certificate of Occupancy, 30% shall be paid prior to issuance of the first renewal of the property’s rental permit, and 30% shall be paid prior to issuance of the second and third renewal of the property’s rental permit. Said funds shall be used by the Town of Islip in conjunction with the Long Island Housing Partnership, Town of Islip Community Development Agency or similar entity to fund affordable housing initiatives within Bay Shore hamlet.

12. All lighting shall be positioned or shielded so as to illuminate only the subject parcel and shall be in substantial conformance to the lighting shown on the final approved site plan. The maximum height of the new decorative light fixtures in the parking area shall be limited to 12 feet. All fixtures shall be shielded downward. The Planning Board reserves the right to further limit or shield lighting fixtures if it is determined that light is not being contained on the subject property. The Planning Board reserves the sole responsibility of determining if lighting is properly contained on the subject property.

13. Prior to the issuance of any sign permits, all exterior signs shall be subject to review and approval by the Town of Islip Planning Department. Facial signs shall be unit or indirectly illuminated only. The Planning Department shall review the signs for design compatibility, color, materials, height, and size. Applicant/owner agrees to waive the right to apply for signboard variances from the Zoning Board of Appeals.

14. Applicant/owner shall provide a kiosk and/ or ground floor display on the subject site which details the historical use of the property. If installed, said kiosk shall be located in accordance with the approved site plan.

15. Except as provided herein or otherwise modified, applicant/owner agrees to comply in all respects with the Subdivision and Land Development Regulations and the Islip Town Code.

16. All required permits, plan submissions, and physical property improvements described herein shall be substantially completed within 24 months of the date of the Town Board resolution approving this application. Property owner further agrees to permanently maintain all improvements. If the owner fails to comply with this restriction then the Town Board reserves the right, after due public hearing, to revert the zoning of the subject property, rescind any special permit(s) and approvals on the subject property, or revoke the property’s Certificate of Occupancy. The property owner shall waive any right to non-conformity in the event that any of the above Town Board actions are taken, except that the non-conforming location of any building constructed after the effective date of this action shall be allowed to continue. The Planning Board may or
may not extend the completion time frame at its sole discretion and upon applicant/owner request.

17. The above-mentioned covenants and restrictions shall be and constitute real covenants running with the land and shall be binding upon the Declarant and any and all subsequent owners of the said real property or any part thereof, and upon their heirs, executors, and administrators (or their successors and assignees) subject, however, to the right of the Town of Islip after a public hearing to amend, alter, annul or repeal any or all of the foregoing covenants and/or restrictions at any time with the consent of the owner or owners for the time being of the premises herein described, and such right shall be effectual and may be exercised without the consent of any adjacent owners or other owners or lienors of any other property.

Following approval of such Declaration of Covenants and Restrictions by the Town Attorney, said instrument shall be recorded in the Suffolk County Clerk's Office by the applicant, at the applicant's expense.

UPON a vote being taken, the result was: Unanimously carried.

IN WITNESS WHEREOF, the Declarant has hereto set his hand and seal the day and year first above written.

[Signature]

Frank Pace, III - Managing Member
STATE OF NEW YORK
COUNTY OF SUFFOLK ss:

On the 25th day of April 2017, before me, the undersigned, personally appeared Frank Pace III personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature on the instrument, the individual(s) or the person on behalf of which the individual(s) acted, executed the instrument.

Notary Public

LISA M. PACE
NOTARY PUBLIC, State of New York
No. 01PA-697895
Duly Qualified in Suffolk County
Commission Expires October 13, 2023
EXHIBIT C-2

Chamber of Commerce of Greater Bay Shore Letter
Mr. William Mannix  
Industrial Development Agency  
40 Nassau Avenue  
Islip, New York 11751

Re: Maple Ave Lofts

Dear Bill:

I cannot believe, in this year of 2017 we are once again addressing a letter of support for Maple Ave Lofts, but we are very pleased to do so. I clearly recall our excitement in 2009 when Larry Gargano first introduced the renderings for this extraordinary, first of its kind, multifamily apartment complex in downtown Bay Shore. Fortunately for us, over these many years the Town held fast and this superlative design was never altered. It has been emulated by other developers throughout Long Island but none have achieved the near perfection of this project: 90 rental units including studios, one and two bedroom apartments enhanced by bay windows, balconies, step back terraces, a courtyard and other grand architectural elements, with some commercial space on the ground floor. This project brings together two outstanding partners, Larry Gargano and Lisa Pace, who will continue the successful revitalization of Downtown Bay Shore by offering these luxury rentals a block from Main Street, with convenient access to our many restaurants, businesses, the Boulton Center for the Performing Arts, our train station, and of course, the Fire Island Ferries.

We ask the IDA Board to approve funding for this application for we believe this project is unmatched by any others on Long Island.

Sincerely yours,

Donna della Periconi  
President
EXHIBIT C-3

Long Island Housing Partnership, Inc. Letter
November 22, 2017

Town of Islip Industrial Development Agency
40 Nassau Avenue
Islip, N.Y. 11751

Re: Maple Avenue

To: Supervisor and IDA Board Members

The Long Island Housing Partnership’s (LIHP) mission is to assist in the creation of affordable housing. LIHP has worked on numerous affordable and workforce housing developments in the Town of Islip.

While LIHP is neutral as to the request to waive any covenants and restrictions, LIHP supports developments such as Maple Avenue and feels this development is another critical component to the growth of Long Island and, especially, to the Town of Islip. It is important that this development will provide for 20% of the new units to be set aside as affordable housing.

This development will provide quality affordable rental housing and LIHP will support this development to ensure all affordability requirements are met.

If there is anything else I can provide you with, please contact me at (631) 435-4710. Thank you.

Sincerely,

[signature]

Peter J. Elkind
President & CEO

[signature]

James Britz
Executive Vice President
EXHIBIT C-4

Eligibility of Residential Developments for IDA Benefits

It has been nearly 50 years since the New York State Legislature enacted legislation authorizing industrial development agencies (IDAs) for the purpose of promoting economic development. Now, towns, cities, and counties throughout the state have created their own IDAs under General Municipal Law (GML) Article 18-A (the IDA Act) and use them to encourage—and to financially assist—a wide variety of real estate developments, often to great success.

In many instances, however, an IDA’s efforts are met with objections, both in and out of court. Recently, for example, tax benefits afforded by a town’s IDA to the Green Acres Mall on Long Island aroused community criticism, and led New York State Comptroller Thomas DiNapoli to announce that he would audit the IDA to determine its compliance with policies and procedures related to its approval of the project.

There also continues to be disputes over the scope of projects that may receive IDA benefits. Last August, the Supreme Court, Seneca County, rejected a challenge to a decision by the Seneca County IDA to provide tax benefits for a casino being built in the county, Nearpass v. Seneca County Industrial Development Agency, 53 Misc. 3d 737 (Sup.Ct. Seneca Co. 2016). The petitioners argued that the casino was not a project defined in the IDA Act and, therefore, that it was ineligible for IDA benefits. They pointed out, among other things, that when the IDA Act first was enacted, casinos were prohibited in New York, and after casinos were allowed by amendment to the New York Constitution, the IDA Act was not amended to include casinos as a project entitled to IDA benefits.

Perhaps more surprising than a dispute over the eligibility of a casino to receive IDA benefits was a recent court case that asked whether a residential development could qualify for IDA benefits—an issue of state-wide significance. In Matter of Ryan v. Town of Hempstead Industrial Development Agency, Index No. 5324/16 (Sup.Ct. Nassau Co. Jan. 27, 2017), the Supreme Court, Nassau County, held that a residential apartment building project fell within the definition of a project for which IDA benefits may be granted.

After first providing background on the IDA Act, this column will discuss the court’s decision in Matter of Ryan and its implications.

The IDA Act

When the legislation governing the creation, organization, and powers of IDAs in New York State was enacted in 1969, it provided that its general purpose was “to promote the economic welfare of [the state’s] inhabitants and to actively promote, attract,
encourage and develop economically sound commerce and industry through governmental action for the purpose of preventing unemployment and economic deterioration." This intent was further evidenced by the original provision of GML Section 858, which provided that:

The purposes of the agency shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the state of New York and to improve their standard of living.

The decision by the Nassau County Supreme Court in 'Matter of Ryan' provides confirmation that residential developments are eligible to receive industrial development agency benefits.

In approving the bill, then-Governor Nelson Rockefeller noted that "industrial development agencies provide one means for communities to attract new industry, encourage plant modernization and create new job opportunities." McKinney's 1969 Session Laws, Vol. 2, p. 2572.

The original legislation has been amended a number of times since 1969 to broaden the scope of permissible IDA activities. For example, the definition of project was expanded to specifically include construction of industrial pollution control facilities (L. 1971, ch 978), winter recreation facilities and then recreation facilities generally (L. 1974, ch 854; L. 1977, ch 630), horse racing facilities (L. 1977, ch 267), railroad facilities (L. 1980, ch 803) and educational or cultural facilities (L. 1982, ch 541).

As noted above, however, it has not been amended to specifically include casinos. And it also does not specifically include residential developments.

In 1985, however, the New York state comptroller's office was asked by the village attorney for the village of Port Chester whether construction of an apartment complex was a commercial purpose within the meaning of GML Section 854(4) and, thereby, whether it was a proper project for industrial development bond financing. In response, the Comptroller issued Opinion No. 85-51, 1985 N.Y. St. Comp. 70 (Aug. 16, 1985) (the "comptroller's opinion").

In the comptroller's opinion, the comptroller's office explained that, at its inception, the IDA Act's primary thrust was to promote the development of commerce and industry as a means of increasing employment opportunities.

The comptroller's opinion then reasoned that for an apartment complex to qualify as an eligible project under Article 18-A, it had to promote employment opportunities and prevent economic deterioration in the area served by the IDA.

The comptroller's opinion added that the comptroller's office was "not in a position to render an opinion" as to whether a project that consisted of the construction of an apartment complex was a commercial activity within the meaning of Article 18-A. Rather, it continued, such a determination "must be made by local officials based upon all the facts relevant to the proposed project."

Any such determination, the comptroller's opinion concluded, had to take into account the stated purposes of the IDA Act: "the promotion of employment opportunities and the prevention of economic deterioration."

When this issue reached the court in Triple S. Realty v. Village of Port Chester, Index No. 22355/86 (Sup. Ct. Westchester Co. Aug. 19, 1987), the Westchester County Supreme Court held that residential construction may be eligible for industrial development agency benefits if such construction "would increase employment opportunities and prevent economic deterioration in the area served by the IDA."

The decision by the Nassau County Supreme Court in Matter of Ryan provides further confirmation that
residential developments certainly are eligible to receive IDA benefits.

'Matter of Ryan'

The case arose after the Town of Hempstead Industrial Development Agency (TOHIDA) granted financial and tax benefits and assistance to Renaissance Downtowns UrbanAmerica, with respect to the construction of a new 336-unit residential apartment complex in the village of Hempstead on Long Island. That was Phase 1 of a multi-phase revitalization project that was planned to include additional mixed-use buildings and parking facilities.

The financial benefits and assistance granted by the TOHIDA included:

- exemptions from mortgage recording taxes for one or more mortgages;
- securing the principal amount not to exceed $70 million;
- a sales and use tax exemption up to $3.45 million in connection with the purchase/lease of building materials, services, or other personal property for the project; and
- abatement of real property taxes for an initial term of 10 years pursuant to a payment in lieu of taxes (PILOT) agreement.

Six petitioners, including a trustee for the village of Hempstead, challenged the TOHIDA's resolution in an Article 78 proceeding, arguing that an IDA could not grant benefits for a project that was residential, either in whole or in part, in nature.

For their part, the respondents contended that the development of a residential rental building fell within the ambit of the statutory definition of a project entitled to receive an IDA's financial assistance and benefits in that it promoted "employment opportunities" and prevented "economic deterioration" in the area served by the IDA.

The court agreed with the respondents and dismissed the petition. In its decision, the court noted that the comptroller's opinion had observed that the determination of whether construction of an apartment complex was a commercial activity within the meaning of the IDA Act had to be made by local officials based on facts relevant to the proposed project.

The court then pointed out that the TOHIDA had approved Renaissance's application for assistance with respect to the first phase of the revitalization project based on the TOHIDA's findings, that, among other things:

- the town of Hempstead was in need of attractive multi-family housing to retain workers in the town and attract new business;
- a healthy residential environment located in the town was needed to further economic growth;
- there was a lack of affordable, safe, clean multi-family housing within the town; and
- the facility would provide the nucleus of a healthy residential environment, and would be instrumental and vital in the further growth of the town.

Moreover, the court continued, the TOHIDA also found that the development of the first phase of the facility would "promote and maintain the job opportunities, health, general prosperity and economic welfare" of the town's citizens and "improve their standard of living."

Given that the project promoted employment opportunities and served to combat economic deterioration in the area served by the TOHIDA, the court upheld the TOHIDA's decision as rationally based and not arbitrary or capricious, an abuse of discretion, or an error of law.

Conclusion

IDA benefits can play an important role in real estate development. For nearly five decades, they have benefited New Yorkers in numerous situations. As the comptroller's office and the courts have recognized, a project—including a residential project—that demonstrates that it promotes employment opportunities and prevents economic deterioration is eligible to receive IDA benefits.
EXHIBIT C-5

Ryan et al. v. Town of Hempstead Industrial Development Agency et al.
SHORT FORM ORDER

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

PRESENT: HON. JEFFREY S. BROWN
JUSTICE

In the Matter of DONALD L. RYAN, FLAVIA
IANNACCONE, JAMES DENON, JOHN M. WILLIAMS,
REGINALD LUCAS and ROBERT DEBREW, JR.,

Petitioners,

For A Judgment Pursuant to Article 78 of the New York
Civil Practice and Rules,

against-

TOWN OF HEMPSTEAD INDUSTRIAL DEVELOPMENT
AGENCY, RENAISSANCE DOWNTOWNS
URBANAMERICA, LLC. and HOLA PARCEL 1 LLC,

Respondents.

The following papers were read on this motion:

Notice of Petition, Affidavits, Exhibits, Memorandum Annexed.................1,2
Verified Answers.............................................................................3,4,5
Opposing Affidavits...........................................................................6,7,8,9,10,11,12
Reply Affidavits................................................................................13,14
Sur-Reply Affidavit..............................................................................15
Hearing Record (3 Vols)..................................................................16

Application by petitioners pursuant to Article 78 to invalidate as ultra vires and to void
the May 15, 2016 resolution passed by the Town of Hempstead Industrial Development Agency
(TOHIDA) is decided as hereinafter provided.
In this Article 78 proceeding, petitioners seek to invalidate the resolution passed by respondent TOHIDA on May 18, 2016, which granted financial and tax benefits and assistance to respondent Renaissance Downtowns UrbanAmerica, L.P. (Renaissance) for the construction of a new 326 unit residential apartment complex on the west side of the intersection of Washington and Front Streets (Phase 1 of the multi-phase Village of Hempstead downtown revitalization project) which was planned to include additional mixed use buildings/parking facilities. The Phase 1 property was a tax exempt Village property for at least 50 years until December 15, 2016 when it was acquired by respondent Renaissance.

The financial benefits and assistance granted include:

- exemptions from mortgage recording taxes for one or more mortgages securing the principal amount not to exceed $70,000,000;

- sales and use tax exemption up to $3,450,000 in connection with the purchase/lease of building materials, services or other personal property for the project;

- abatement of real property taxes for an initial term of ten years pursuant to Payment In Lieu of Taxes Agreement (PILOT).

Based on the theory that the resolution was affected by an error of law, i.e., that residential apartment buildings are not included in the type of project or facility that is eligible for financial assistance under the General Municipal Law Article 18-A (Industrial Development Act [the IDA or the Act]), petitioners seek to invalidate the subject resolution as ultra vires.

In opposition, respondents first seek dismissal of the petition based on its alleged multiple fatal flaws including petitioners’ lack of standing; failure to raise the ultra vires issue in the administrative proceeding before respondent TOHIDA; and failure to serve the attorney general in accordance with CPLR 7804(a).

The alleged flaws are not fatal and do not provide a basis for dismissal. Petitioners have standing to maintain an action for equitable or declaratory relief under State Finance Law § 173-b (even if the issue of whether the project herein falls within the definition of a “project” for which IDA benefits may be granted (see Nappetta v. Seneca County Human Dev. Agency, 92 Misc 3d 513 [Sup Ct, Seneca County 2013, Palver, J.]; Dudley v. Korniak, 32 NY2d 542 [1973];)

The development as outlined in the Appraisal Report (Exhibit “E” to the Petition) was approved in an unanimous 5-0, bi-partisan vote by the Village of Hempstead Board. It includes the construction of, among other things: residential units, structured parking, retail space, medical office building, mixed use retail/office with grade and basement level supermarket, surface parking, office space, senior independent living apartment building, hotel and restaurant space.
In further support of its dismissal, movants argue that the petition fails to state a viable cause of action as it is based on the false premise that an Industrial Development Agency may not grant benefits for a commercial project that is residential, either in whole or in part, in nature.

For the reasons which follow, the petition must be dismissed.

Pursuant to General Municipal Law § 858, an Industrial Development Agency

"shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities ... and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their recreation opportunities, prosperity and standard of living."

An Industrial Development Agency is thus a "governmental agency or instrumentality" created for the purpose of preventing unemployment and economic deterioration (General Municipal Law § 852) and to "provide one means for communities to attract new industry, encourage plant modernization and create new job opportunities" (Governor's Mem., 1969 McKinney's Session Laws of N.Y. at 2572).

According to respondents, the development of a residential rental building falls within the ambit of the statutory definition of a project entitled to financial assistance and benefits, as set forth in § 854(4) of the General Municipal Law in that it "promotes employment opportunities and prevents economic deterioration in the area served by the industrial development agency" (Opina. St. Comp. No. 55-51 [N Y S. Ct., 1985 WL 25843]).

In the opinion of the State Comptroller, the determination of whether construction of an apartment complex is a commercial activity within the meaning of the statute must be made by

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1 As set forth in § 854(4) the term "project" is broadly defined to include, in relevant part, "any land, any building or other improvement, and all real and personal properties located within the state of New York and within or outside the municipality for whose benefit the agency was created."

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local officials based upon facts relevant to the proposed project (‘Id. “[local officials must
determine, based upon all the relevant facts, whether construction of an apartment complex will
promote employment opportunities and prevent economic deterioration . . . ’”). Respondents
argue that TOHIDA acted within the scope of its authority in resolving to provide IDA assistance
to the project since it would promote job creation and growth in a distressed area of the Village
of Hempstead and serve as the first physical manifestation of the Village’s Downtown
Revitalization plan and a catalyst for future phases.

Here, the record establishes that a duly noticed public hearing was held regarding
respondent Renaissance’s application for TOHIDA assistance with respect to the first phase of
the $2.5 Billion Hempstead Revitalization project for which site plan approval was already in
place and a building permit issued. The resolution was granted based on respondent TOHIDA’s
findings that, among other things:

(a) The Town of Hempstead is in need of attractive multi-family
housing to retain workers in the Town and attract new business;

(b) a healthy residential environment located in the Town of
Hempstead is needed in order to further economic growth;

(c) there is a lack of affordable, safe, clean multi-family housing
within the Town of Hempstead;

(d) the facility will provide the nucleus of a healthy residential
environment, and will be instrumental and vital in the further growth
of the Town of Hempstead.

Respondent TOHIDA also found that:

the acquisition, construction and equipping of the Phase I Facility will
promote and maintain the job opportunities, health, general prosperity
and economic welfare of the citizens of the Town of Hempstead and
the State of New York and improve their standard of living and
thereby serve the public purposes of the Act;

the project conformed with local zoning laws and planning regulations
of the Town of Hempstead; and

the project will not have a significant effect on the environment as
determined in accordance with Article 8 of the Environmental
Conservation Law and regulations promulgated thereunder.

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The allegations proffered in opposition to the resolution, regarding traffic congestion; additional garbage/sewage; additional burden of increased student population in an already overcrowded/underfunded school district; burden of increased financial costs of municipal services to support increased population, are speculative and lack merit in the face of reasoned evaluation of the project by respondent TOHIDA as set forth in the record. As stated in the affidavit of Wayne J. Hall, Sr., Mayor of the Incorporated Village of Hempstead and Chairman of the Village Community Development Agency:

"the IDA benefits awarded to Renaissance for this particular Phase I of the development are critically important to the revitalization of the Village of Hempstead's downtown area, and are essential to the twin goals of preventing any further physical and economic deterioration of the area, as well as promoting employment opportunities to the Village."

As stated in the Socio-Economic Impact of the Village of Hempstead's Revitalization Plan report, dated March 31, 2016, (Exhibit "A" to the Affidavit of Donald Monti in Opposition to Petition):

"Upon completion, the overall revitalization of the Village of Hempstead will have generated an estimated $4 billion in economic activity, comprised of economic activity during and after the construction period.

Nearly $3 billion of primary and secondary economic activity will be generated from construction of the development encompassing 7 million square feet, comprising 2.8 million square feet of 1,500 residential units and 2.3 million square feet of mixed use, retail, hospitality, office and other commercial uses.

This will result in new socio-economic improvements to the Village of Hempstead that will provide much needed housing for Long Island's young professionals and active adults, and create during the construction period as many as 22,000 temporary construction and secondary jobs generating nearly $1.4 billion in wages.

When completed, the revitalization will create approximately 6,000 permanent and 4,500 secondary jobs generating $494 million in wages of which 1,500 of the permanent jobs generating $175 million in wages projected to be held by Village of Hempstead residents. Thus, in total, the construction activity and resulting permanent jobs and their related secondary economic impacts are expected to generate nearly $4 billion in primary and secondary economic impact, and over the 20 year PILOT period $422 million in new county, town, school and village property taxes, and $42.6 million in new county sales taxes."

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In reviewing the actions of an administrative agency, courts must assess whether the determination was the result of an error of law or was arbitrary, capricious, or an abuse of discretion such that the actions at issue were taken without sound basis in reason and without regard to the facts (Matter of County of Monroe v Kahafjian, 83 NY2d 155, 189 [1994], citing Matter of Pell v Bd. of Educ., 74 NY2d 222, 231 [1990]; Matter of Calvi v Zoning Bd. of Appeals of the City of Yonkers, 238 AD2d 417, 418 [2d Dep't 1997]). The agency's determination need only be supported by a rational basis (Matter of County of Monroe v Kahafjian, supra; Matter of Jennings v Comm. N.Y., Dept. of Social Svs., 71 AD3d 98, 108 [2d Dep't 2010]). If the determination is rationally based, a reviewing court may not substitute its judgment for that of the agency even if the court might have decided the matter differently (Matter of Savasky v Zoning Bd. of Appeals of Southhampton, 5 AD3d 775, 780 [2d Dep't 2004]; Matter of Calvi v Zoning Bd. of Appeals of the City of Yonkers, supra). It is not for the reviewing court to weigh the evidence or reject the choice made by the agency where the evidence conflicts and room for choice exists (Matter of Calvi v Zoning Bd. of Appeals of the City of Yonkers, supra, citing Toys "R" Us v. Silva, 89 NY2d 411, 424 [1996]; Akpan v Koch, supra).

The record at bar establishes that in adopting the challenged resolution following a public hearing, review of Renaissance's application, and the environmental effects, respondent TOHIDA did not act in excess of its jurisdiction or beyond the scope of its authority, i.e., ultra vires. Nor was TOHIDA's decision after review of all of the circumstances to adopt the resolution finding that the Phase I facility constituted a "project" under the IDA afflicted by an error of law as would warrant relief under Article 78.

Where, as here, the project at issue promotes employment opportunities and serves to combat economic deterioration in an area served by an industrial development agency, a finding that the project falls within the ambit of the IDA is rationally based; neither arbitrary or capricious, or an abuse of discretion, nor an error of law.

Accordingly, the petition is denied and the proceeding is hereby dismissed.

This constitutes the decision and order of this court. All applications not specifically addressed herein are denied.

Dated: Mineola, New York
January 25, 2017

[Signature]

[Name]
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EXHIBIT D

Town of Islip Industrial Development Agency Uniform Tax Exemption Policy
TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY

UNIFORM TAX EXEMPTION POLICY

The Town of Islip Industrial Development Agency (TOIDA) provides financial assistance (tax-exempt or taxable bonds and/or straight lease transactions) for projects which promote the economic growth and health of Islip Town and the Long Island region. TOIDA provides financial assistance to all projects and facilities as defined in Title I of Article 18A of the General Municipal Law. These projects and facilities include, but are not limited to: industrial, manufacturing, research and development, warehousing, commercial, office, recreation and civic facilities. Also included are: affordable housing, senior housing, assisted living facilities, brownfield redevelopment projects and projects that eliminate commercial blight. Certain retail projects are included (those that are in conformance with Sec. 862 of the NYS GML, those that are part of a mixed use downtown redevelopment plan and those that involve the elimination of community blight).

All projects receiving financial assistance through TOIDA are eligible for various tax exemptions and abatements.

I. REAL PROPERTY TAXES

A. Real Property Tax Abatement: TOIDA provides real property tax abatements in the form of reduction of existing taxes and/or freezing existing taxes and/or abating the increased assessment (value added) as a result of the project. Real property tax abatements may be structured in the form of fixed annual payments with or without scheduled increases over a period of time or in the form of abatements of the increased assessment that results from the project over a period of time or in the form of reduction of the existing taxes with a phase in back to the original tax level over a period of time.

Each project is reviewed and evaluated on a case by case basis. The Agency review utilizes criteria that measure the projects level of significance and/or strategic value and/or impact upon the Town of Islip at both the micro and macro level as well as upon Long Island as a Region and/or the State economy.

As a general rule, the term of the real property tax abatement is ten years. The basic real property tax abatement provided by the TOIDA is based upon the equivalent of Section 485-b of the New York State Real Property Tax Law. This section provides for a 50% real property tax abatement on the increased assessed value in the first year; 45% real property tax abatement in the second year; 40% abatement in the third year and thereafter declining 5% per year over a ten year period. A 485-b real property tax abatement is the minimum that TOIDA provides. An enhanced real property tax abatement is considered and/or provided under the following circumstances:
1. Existing Vacant Facilities & Brownfields: In order to encourage "reuse" and upgrading of existing building stock and environmentally damaged properties commonly referred to as brownfields, TOIIA may provide an enhanced real property tax benefit and abatement for projects involving vacant existing facilities and brownfields. The benefits may include freezing or reducing the assessment base of the pre-improved facility and granting of abatements that are equivalent of double the benefits provided by Section 485-b of the Real Property Tax Law. These abatements will consist of a 100% abatement on the increased assessed value in the first year; a 90% abatement in the second year; and 80% abatement in the third year and thereafter declining 10% per year over a ten year period.

2. Significant/Strategic Projects: TOIIA may provide enhanced real property tax abatements (double 485-b) to projects that are considered significantly and strategically important to the economic well being of Islip Town and the Long Island region. Provision of an enhanced real property tax abatement would be considered for high-tech and biomedical manufacturing; research and development; computer and data processing facilities; financial (back office) operations; professional services industry; corporate, national or regional headquarters; and projects deemed significant to the revitalization of distressed communities. Each project eligible for enhanced property tax abatement is evaluated pursuant to the guidelines/criteria contained in Attachment 1.

3. Projects within the boundaries of the former Empire Zone: TOIIA provides enhanced real property tax abatement to projects located within the boundaries of the former State designated Empire Zone. The enhanced property tax abatement consists of a 100% abatement on the increased assessed value for the first 5 years; 90% in year 6; 80% in year 7 and thereafter declining 10% per year through year 14.

4. Housing projects: For qualified housing projects (affordable housing, senior housing, assisted living facilities) that provide a public benefit in accordance with the Town of Islip Comprehensive Plan and related Planning Department studies, TOIIA may set flat PILOT payments on a per unit, per year basis. The length and terms of these agreements will be determined on a case-by-case basis, based upon such factors as affordability, market conditions & the extent of public subsidies and participation in the project.

5. Civic Facilities (Not-for-Profits): TOIIA provides property tax exemption for projects owned by 501(c)(3) corporations, equivalent to the exemption (100%) these not-for-profit corporations would receive under the RPTL, absent the involvement of the agency. For projects leased by 501(c)(3) corporations, TOIIA provides a 100% abatement on any improvement to real property for the term of the lease, as long as the facility is used exclusively for, and in furtherance of, their 501(c)(3) mission.

6. Blighted Commercial Properties: TOIIA may provide enhanced property tax abatements (double 485-b) for projects that eliminate community blight as defined in Chapter 6A, Article II of the Islip Town Code.

7. Mixed Use properties in Downtown Commercial Corridors: TOIIA may provide enhanced real property tax abatements (double 485-b) for projects on which a combination of residential and commercial construction work is performed to create a building used for mixed residential and commercial purposes. Such projects must
be located within proscribed downtown corridors as contained in the Suffolk County
Industrial and Commercial Incentive Board Plan adopted in 1999, as amended and/or
those projects governed by Chapter 68 of the Town Code known as Downtown
Development Districts and Business Districts.

8. Town and/or other Municipally Owned Property: Property owned by the Town
of Islip and/or another municipal entity that is sold and/or leased to a private
developer and/or private company may qualify for a 100% abatement and/or an
enhanced abatement for periods up to 15 years. However, no village taxes will be
abated in any PILOT Agreement entered into under this provision.

9. Large Employment Generators: Projects that create or retain 500 jobs or more may
qualify for tax abatements for periods of up to 20 years. For new construction, this
would be in the form of a 100% abatement the first year and declining 5% per year
for 20 years. For existing buildings, the benefits may include reducing existing real
property taxes and/or freezing the real property tax base and/or granting real property
tax abatements on the increased value that result from the project for periods up to 20
years.

B. Projects in Foreign Trade Zone: For projects located within Islip’s Foreign Trade Zone, all
payments are made pursuant to land lease with the Town of Islip’s Foreign Trade Zone
Authority.

C. Recapture of Benefits: Projects that receive enhanced real property tax abatements are
subject to the recapture of benefits pursuant to the following schedule:

<table>
<thead>
<tr>
<th>Within 1 year</th>
<th>100%</th>
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<tbody>
<tr>
<td>Within 2 years</td>
<td>100%</td>
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<tr>
<td>Within 3 years</td>
<td>50%</td>
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<td>Within 4 years</td>
<td>25%</td>
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<tr>
<td>After 4 years</td>
<td>0%</td>
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</tbody>
</table>

The above term period is from the effective date of the PILOT Agreement. Imposition of any
recapture is at the sole discretion of the TOIIDA and is reviewed/considered on a case by
case basis. Reasons for the recapture of benefits include the following:

1. Sale or closure of the facility and departure of the company from the Long Island
region.
2. Significant change in the use of the facility and/or the business activity of the
company.
3. Significant employment reductions not reflective of the company’s (normal) business
cycle and/or local and national economic conditions.

D. Deviations from Policy: TOIIDA reserves the right to deviate from its uniform real property
tax abatement policy under special/extraordinary circumstances. Deviations can take the
form of providing less or more in the way of real property tax abatements. These deviations
would be done by reducing or increasing the percentage of the annual abatement, or by
reducing or increasing the term of the PILOT Agreement, or by doing a combination of both.
Provision of less in the way of real property tax abatements is applicable to projects that are
subsequent phases of a previously TOIIDA financed, multi-phased project and/or TOIIDA
determines that the benefit provided by these projects merits a reduced level of incentive.
II. SALES TAX EXEMPTIONS

A. Eligible Expenses: TOIIDA provides sales tax exemptions on all materials and/or equipment used or incorporated into the project during the initial construction/renovation and equipping of the project. TOIIDA does not provide sales tax exemption for ongoing expenses after the project is completed.

B. TOIIDA executes a sales tax exemption agreement with the project occupant that contains an expiration date for the continued availability of sales tax exemptions. The expiration date is based upon the anticipated project completion date. Should the project not be complete by the expiration date, the project occupant must request an extension of the expiration date from TOIIDA.

C. Reporting Requirements: Project occupants (agents) are required to annually file a statement of the value of all sales tax exemptions claimed for the year to the New York State Department of Taxation and Finance. TOIIDA requires that each project occupant (agent) provides the Agency with a copy of that annual filing.

D. Deviations from Policy: TOIIDA reserves the right to deviate from its uniform sales tax exemption policy under special/extraordinary circumstances. Deviations can take the form of providing less or more in the way of sales tax exemptions. These deviations would be done by reducing the full sales tax exemption to a partial sales tax exemption for the initial project completion period or by extending the term of the sales tax agreement to include ongoing operating expenses. Provision of less in the way of sales tax exemption is applicable to projects that are subsequent phases of a previously TOIIDA financed multi-phase project and/or TOIIDA determines that the benefit provided by these projects merits a reduced level of incentive (cost). Provision of more in the way of sales tax exemption is applicable to projects that are considered extremely significant and vital to the economic health and well-being of Islip Town and the Long Island region. Any applicant may apply in writing to TOIIDA for increased sales tax exemptions setting forth reasons for a proposed deviation from the uniform policy. Such request should set forth specific data and information which would cause TOIIDA to deviate from its uniform policy focusing, in whole or in part, on the guidelines and criteria set forth in Attachment 1 hereto. Each time TOIIDA deviates from its uniform sales tax exemption policy, it will provide written notification, with an explanation for the deviation, to the chief executive officer of each affected taxing jurisdiction.

III. MORTGAGE RECORDING TAX

All TOIIDA assisted projects are eligible for exemption from the mortgage recording tax
A. Project Related Financing: Financing secured by a mortgage which is directly related to the project is exempt from the mortgage recording tax.

B. Non-Project Related Financing: Financing secured by a mortgage which is not directly related to, or a part of, the project, are not eligible for exemption from mortgage recording tax.

C. Deviations from Policy: TIOIDA reserves the right to deviate from its uniform mortgage recording tax exemption policy under special/extraordinary circumstances. Deviations can take the form of providing less or more in the way of mortgage recording tax exemptions. These deviations would be done by reducing the mortgage recording tax exemption from a full exemption to a partial exemption or by allowing all or part of the non-project related financing to be exempt from mortgage recording tax. Provision of less in the way of exemption from mortgage recording tax is applicable to projects that are subsequent phases of a previously TIOIDA financed multi-phase project and/or TIOIDA determines that the benefit provided by these project merits a reduced level of incentive (cost). Provision of more in the way of exemption from mortgage recording tax is applicable to projects that are considered extremely significant and vital to the economic health and well-being of Islip Town and the Long Island region. Any applicant may apply in writing to the TIOIDA for increased mortgage recording tax exemptions setting forth reasons for a proposed deviation from the uniform policy. Such request should set forth specific data and information which would cause TIOIDA to deviate from its uniform policy focusing in whole or in part on the guidelines and criteria set forth in Attachment 1 hereto. Each time TIOIDA proposes to deviate from its uniform mortgage recording tax exemption policy, it will provide written notification with an explanation for the deviation to the chief executive officer of each affected taxing jurisdiction.
ATTACHMENT 1

ENHANCED REAL PROPERTY TAX ABATEMENT GUIDELINES/Criteria

TOIDA considers the following significant indicators when determining whether to provide enhanced real property tax abatements. (These determinants are not all inclusive and are not in priority order):

1. **Economy**: Local and regional economic conditions at the time of application.

2. **Jobs**: The extent to which the project will directly create or retain permanent private sector jobs as well as "temporary" jobs during the construction period. In addition, the level of secondary "multiplier" jobs that will be created or retained as a result of the project.

3. **Project Cost/Payroll**: Level of direct annual payroll that results from the project as well as secondary "multiplier" payroll and payroll during the initial construction period.

4. **Project Purpose**: Type of industrial or commercial activity proposed for the facility.

5. **Site Alternatives**: Likelihood that the project will locate elsewhere resulting in subsequent real economic losses for retention projects and possible failure to realize future economic benefits for attraction projects.

6. **Project Location**: Nature of the property before the project (vacant land, vacant buildings, distressed community, Former Empire Zone, blighted property, downtown corridor).

7. **Project Benefits**: Amount of private sector investment as a result of the project and the level of additional revenue for local taxing jurisdictions.

8. **Project Costs**: Impact of the project and the proposed abatements/exemption on local taxing jurisdictions and extent to which will require additional services from local government entities.
TOWN OF ISLIP
INDUSTRIAL DEVELOPMENT AGENCY
AGENDA ITEMS FOR DECEMBER 19, 2017

AGENDA ITEM # 7

TYPE OF RESOLUTION: AMENDED AUTHORIZING RESOLUTION

COMPANY: GALIL IMPORTING CORPORATION

PROJECT LOCATION: 45 GILPIN AVE, HAUPPAUGE

JOBS (RETAINED/Created): RETAINED - 24 - CREATE - 06 -

INVESTMENT: $14,600,000
At a meeting of the Town of Islip Industrial Development Agency (the “Agency”), held at Islip Town Hall, 655 Main Street, Islip, New York on the 19th day of December, 2017, the following members of the Agency were:

Present:

Absent:

Also Present:

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to acquisition of title to a certain industrial development facility more particularly described below (1290 Realty SN LLC/Galil Importing Corporation 2017 Facility) and the leasing of the facility to 1290 Realty SN LLC for further subleasing thereof to Galil Importing Corporation.

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

\[
\begin{array}{ll}
\text{Voting Aye} & \text{Voting Nay}
\end{array}
\]
SECOND AMENDED RESOLUTION OF THE TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE ACQUISITION, RENOVATION AND EQUIPPING OF A CERTAIN INDUSTRIAL DEVELOPMENT FACILITY FOR 1290 REALTY SN LLC, A NEW YORK LIMITED LIABILITY COMPANY AND TO BE SUBLLEASED TO GALIL IMPORTING CORPORATION, A NEW YORK BUSINESS CORPORATION AND APPROVING THE FORM, SUBSTANCE AND EXECUTION OF RELATED DOCUMENTS.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 47 of the Laws of 1974 of the State of New York, as amended from time to time (collectively, the “Act”), the Town of Islip Industrial Development Agency (the “Agency”) was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, there was submitted to the Agency a proposal to undertake the providing and leasing of an industrial development facility to Galil Importing Corporation, a business corporation organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Galil Importing Corporation and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, “Galil”), consisting of the acquisition of an approximately 8.0 acre parcel of land located at 45 Gilpin Avenue, Hauppauge, New York 11788 (the “Land”), the renovation of an approximately 172,000 square foot building located thereon, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the “Improvements”), and the acquisition and installation therein of certain equipment and personal property (the “Equipment”; and, together with the Land and the Improvements, the “Facility”), which Facility will be leased by the Agency to Galil, and subleased in part to various tenants (the “Tenants”), and used, in part, by Galil as a warehouse, importing, packaging and distribution center in its business as an importer, packager and distributor of imported foods (the “Project”); and

WHEREAS, the Agency by resolution duly adopted on October 24, 2017 (the “Authorizing Resolution”), authorized the acquisition, renovation and equipping of the Facility and the execution and delivery of the Agency Documents (as defined therein); and

WHEREAS, Galil, by letter dated November 7, 2017 (the “Letter Amendment”), notified the Agency of its intent to amend its application for assistance dated August 31, 2017 (the “Application”), to reflect that (i) Galil will now be the sublessee (the “Sublessee”) of the Facility, (ii) the Company will be 1290 Realty Corp., a New York business corporation (“1290 Realty Corp.”), and (iii) the Sublessee has requested the Agency’s assistance in connection with the acquisition of certain equipment (defined below); and

WHEREAS, 1290 Realty Corp. represented to the Agency that the ownership and the principals of 1290 Realty Corp. and the Sublessee are the same owners and principals; and

WHEREAS, Galil, by letter dated November 7, 2017 (the “Letter Amendment”), notified the Agency of its intent to amend its application for assistance dated August 31, 2017
(the “Application”), to reflect that (i) Galil will be the sublessee (the “Sublessee”) of the Facility, (ii) the Company will be 1290 Realty Corp., a New York business corporation (“1290 Realty Corp.”), and (iii) the Sublessee has requested the Agency’s assistance in connection with the acquisition of certain equipment (defined below); and

WHEREAS, the Agency by resolution duly adopted on November 21, 2017, (the “Amended Authorizing Resolution”), authorized the acquisition, renovation and equipping of the Facility and the execution and delivery of the Agency Documents (as defined therein); and

WHEREAS, counsel to 1290 Realty Corp., by letter dated December 5, 2017 (the “Second Letter Amendment”), notified the Agency of 1290 Realty Corp.’s further amendment to its Application, to reflect that 1290 Realty intends to enter into a reverse 1031 exchange for the Facility, and the Company has formed an entity known as 1290 Realty SN LLC, a limited liability company (the “LLC”), the sole member of the LLC will initially be 1031 Highland, Inc., a qualified exchange company (the “Exchange Agent”; and, before Effective Date, the “Company”), and 180 days following the sale of 1290 Realty Corp.’s current facility, the membership interests in the LLC will be transferred by the Exchange Agent to 1290 Realty Corp., as the sole member of the LLC, and the LLC will become the Company (the “Reverse 1031 Exchange”); and

WHEREAS, the Project will now be descried as the providing and leasing of an industrial development facility to 1290 Realty Corp., a business corporation organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of 1290 Realty Corp. and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “1290 Realty Corp.”) and Galil Importing Corporation, a business corporation organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Galil Importing Corporation and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Sublessee”), consisting of (i) the acquisition of an approximately 8.0 acre parcel of land located at 45 Gilpin Avenue, Hauppauge, New York 11788 (the “Land”), and the renovation of an approximately 172,000 square foot building located thereon, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the “Improvements”) and the acquisition and installation of certain equipment not part of the Equipment (as hereinafter defined) (the “Facility Equipment”; together with the Land and the Improvements, the “Company Facility”), which Company Facility is to be leased by the Agency to the to the Company (as defined below) and a portion of the Company Facility will be subleased by the Company (as defined below) to the Sublessee and a portion of the Company Facility will be subleased by the Company (as defined below) to various tenants (the “Tenants”), and (ii) the acquisition and installation of certain equipment and personal property (the “Equipment”; and, together with the Company Facility, the “Facility”), which Equipment is to be leased by the Agency to the Sublessee, and which Facility is to be used by each of the Sublessee and the Tenants as a warehouse, importing, packaging and distribution center in its business as an importer, packager and distributor of imported foods (the “Project”); and

WHEREAS, the Exchange Agent and 1290 RealtyCorp. will enter into an Exchange Accommodation Titleholder Agreement, and such other documents as may be necessary (the
“Accommodation Agreement”), pursuant to which the Exchange Agent has agreed to acquire the fee title interest in the Facility prior to the Effective Date (as such term is defined in the Lease Agreement); and

WHEREAS, pursuant to the Accommodation Agreement, the Exchange Agent’s fee interest in the Facility will be assumed by 1290 Realty Corp., on the earlier to occur of (i) the closing of the transactions contemplated by the Accommodation Agreement, or (ii) six (6) months after the execution and delivery of the Accommodation Agreement; and

WHEREAS, upon the Effective Date, the parties hereto hereby agree that 1290 Realty Corp. will be the sole member of the LLC and shall be the owner of the Facility, and the Agency agrees to release the Exchange Agent from all of its obligations, liabilities and duties under the Lease Agreement arising as a result of the Exchange Agent’s ownership interest in the Facility prior to the Effective Date (as such term is defined in the Lease Agreement); and

WHEREAS, a public hearing (the “Hearing”) was held and notice of the Hearing was given as required, and such notice (together with proof of publication) together with the minutes of the Hearing are in substantially in the form annexed hereto as Exhibits A and B respectively; and

WHEREAS, they Agency ratifies and confirms all terms contemplated under the Authorizing Resolution, as amended by the Amended Authorizing Resolution, and as amended by this Second Amended Authorizing Resolution, including the Agency Documents (as defined therein); and

WHEREAS, the Company and the Sublessee have agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated by the transaction contemplated in the Authorizing Resolution, as amended by the Amended Authorizing Resolution, and as amended by this Second Amended Authorizing Resolution; and

NOW, THEREFORE, BE IT RESOLVED by the Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. The Agency hereby amends the Authorizing Resolution, as amended by the Amended Authorizing Resolution, and as amended by this Second Amended Authorizing Resolution to consent to the Reverse 1031 Exchange.

Section 2. The Agency hereby ratifies and confirms all terms contemplated by the Authorizing Resolution, as amended by the Amended Authorizing Resolution, as further amended by this Second Amended Authorizing Resolution, including the Agency Documents.

Section 3. This amended resolution shall take effect immediately.
STATE OF NEW YORK  )
COUNTY OF SUFFOLK  )

: SS.:

I, the undersigned Assistant Secretary of the Town of Islip Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Town of Islip Industrial Development Agency (the “Agency”), including the resolutions contained therein, held on the 19th day of December, 2017, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Agency Documents contained in this transcript of proceedings are each in substantially the form presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with the New York Open Meetings Law, constituting Chapter 511 of the Laws of 1976 of the State of New York, that all members of said Agency had due notice of said meeting and that the meeting was in all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 19th day of November, 2017.

By: ______________________________
Assistant Secretary
TOWN OF ISLIP
INDUSTRIAL DEVELOPMENT AGENCY
AGENDA ITEMS FOR DECEMBER 19, 2017

AGENDA ITEM # 8

TYPE OF RESOLUTION: AUTHORIZING RESOLUTION

COMPANY: ANDREASSI ASSOCIATES

PROJECT LOCATION: 45 CROSSWAY EAST RD, BOHEMIA

JOBS (RETAINED/Created): RETAINED - - CREATE - -

INVESTMENT: N/A
At a meeting of the Town of Islip Industrial Development Agency (the “Agency”), held at Islip Town Hall, 655 Main Street, Islip, New York, on the 19th day of December, 2017, the following members of the Agency were:

Present:

Absent:

Also Present:

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to take action on a proposed mortgage financing and the execution of related loan documents in connection with a certain industrial development facility more particularly described below (Andreassi Associates, LLC/Suffolk AHRC Properties, Inc. 2017 Facility) and approving the execution and delivery of related documents.

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

Voting Aye

Voting Nay
RESOLUTION OF THE TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING MORTGAGE FINANCING AND THE EXECUTION AND DELIVERY OF LOAN DOCUMENTS IN CONNECTION THEREWITH FOR THE ANDREASSI ASSOCIATES, LLC/ SUFFOLK AHRC PROPERTIES, INC. 2017 FACILITY AND APPROVING THE FORM, SUBSTANCE, EXECUTION AND DELIVERY OF SUCH RELATED DOCUMENTS

WHEREAS, by Title I of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 47 of the Laws of 1974 of the State of New York, as the same may be amended from time to time (collectively, the “Act”), the Town of Islip Industrial Development Agency (the “Agency”), was created with the authority and power among other things, to assist with certain industrial development projects as authorized by the Act; and

WHEREAS, the Agency has previously assisted Andreassi Associates, LLC, a New York limited liability company (the “Company”), and Suffolk AHRC Properties, Inc. (f/k/a Suffolk Hostels, Inc.), a not-for-profit corporation (the “Sublessee”), in connection with the acquisition of an approximately 2.3 acre parcel of land located at 45 Crossway East Road, Bohemia, Town of Islip, Suffolk County, New York (Tax Designation: 0500-145.00-01.00-001.012), and the construction and equipping thereon of an approximately 26,070 square foot facility, which was leased by the Agency to the Company, and subleased by the Company to, and used by the Sublessee as a school for children with developmental disabilities (the “Facility”); and

WHEREAS, on February 28, 2017, the Agency adopted a resolution (the “Authorizing Resolution”), authorizing, among other things, the execution of certain documents in connection with the acquisition, leasing and subleasing of the Facility; and

WHEREAS, the Agency is currently leasing the Facility to the Company pursuant to a certain Lease and Project Agreement, dated as of November 1, 2017 (the “Lease Agreement”), between the Agency, as lessor, and the Company, as lessee, a memorandum of which Lease Agreement was intended to be recorded in the Suffolk County Clerk’s office; and

WHEREAS, the Company is currently subleasing the Facility to the Sublessee, pursuant to a certain Agreement of Lease, dated as of April 1, 2016 (the “Sublease Agreement”), between the Company, as sublessor, and the Sublessee, as sublessee; and

WHEREAS, in connection with the leasing and subleasing of the Facility, the Agency and the Sublessee entered into an Agency Compliance Agreement, dated as of November 1, 2017 (the “Agency Compliance Agreement”), whereby the Sublessee made certain representations, warranties and agreements in connection with its use and operation of the Facility; and

WHEREAS, as security for a loan or loans (as such term is defined in the Lease Agreement), the Agency previously consented to a mortgage or mortgages, and such other
loan documents satisfactory to the Agency, upon advice of counsel, in both form and substance, as may be reasonably required by a lender not yet determined, in connection with the financing, any refinancing or permanent financing of the costs of the acquisition, construction and equipping of the Facility; and

WHEREAS, the Agency and the Company previously entered into (i) a certain Mortgage Consolidation, Extension and Modification Agreement, dated on or about February 9, 2017, from the Company and the Agency to Valley National Bank (the “Lender”), securing the principal amount of $3,000,000 (the “Mortgage Consolidation”); and (ii) a certain a certain Gap Mortgage, dated on or about February 9, 2017, from the Company and the Agency to the Lender, securing the principal amount of $1,158,099.52 (the “Gap Mortgage”; and, together with the “Mortgage Consolidation”, the “Mortgages”), which 2017 Mortgages were intended to be recorded in the Suffolk County Clerk’s; and

WHEREAS, to further secure the 2017 Loan, the Agency and the Company executed and delivered to the Lender, an Assignment of Leases and Rents, dated on or about February 9, 2017 (the “Assignment of Rents”; and, together with the Mortgages, the “Mortgage”), which Assignment of Rents was intended to be recorded in the Suffolk County Clerk’s office; and

WHEREAS, the Company has requested the Agency’s consent for an additional loan with respect to the Facility in the amount presently estimated to be approximately $600,000 but not to exceed $800,000 and has requested that the Agency consent to enter into a financing as security for a loan or loans (as such term is defined in the Lease Agreement), as may be reasonably required by the Lender in connection with the financing, any refinancing or permanent financing of the costs of the acquisition and equipping of the Facility (the “2017 Second Mortgage Loan”); and

WHEREAS, as security for such 2017 Second Mortgage Loan being made to the Company by the Lender, the Company has submitted a request to the Agency that it join with the Company in executing and delivering to the Lender one or more mortgages and such other loan documents, satisfactory to the Agency, upon advice of counsel, in both form and substance, as may be reasonably requested by the Lender (the “2017 Second Mortgage Loan Documents”); and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company consistent with the policies of the Agency, in the form of exemptions from mortgage recording taxes for one or more mortgages securing the principal amount presently estimated to be $600,000 but not to exceed $800,000 in connection with the financing or refinancing of the acquisition and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring and equipping the Facility; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York:
WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transactions contemplated by the financing or refinancing of the Facility and the continued leasing and subleasing of the Facility.

NOW, THEREFORE, BE IT RESOLVED by the Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. The Agency hereby finds and determines:

(a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act.

(b) The Facility continues to constitute a “project” as such term is defined in the Act.

(c) The financing or refinancing of the acquisition and equipping of the Facility will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the Town of Islip, Suffolk County and the State of New York and improve their standard of living and thereby serve the public purposes of the Act.

(d) The financing or refinancing of the acquisition and equipping of the Facility as contemplated in this resolution is reasonably necessary to maintain the competitive position of the Company in its industry.

(e) Based upon representations of the Company and counsel to the Company, the Facility continues to conform with the local zoning laws and planning regulations of the Town of Islip and all regional and local land use plans for the area in which the Facility is located.

(f) It is desirable and in the public interest for the Agency to assist in the financing or refinancing of the acquisition and equipping of the Facility.

(g) The 2017 Second Mortgage Loan Documents will be effective instruments whereby the Agency and the Company agree to secure the 2017 Second Mortgage Loan and assign to the Lender their respective rights under the Lease Agreement (except the Agency’s Unassigned Rights as defined therein).

Section 2. In consequence of the foregoing, the Agency hereby determines to: (i) grant a mortgage on and security interest in and to the Facility pursuant to a certain mortgage and security agreement for the benefit of the Lender (the “2017 Second Mortgage”), (ii) execute, deliver and perform the 2017 Second Mortgage, (iii) execute, deliver and perform such other related documents, that the Agency is a party, as may be necessary or appropriate to effect the 2017 Second Mortgage Loan or any subsequent refinancing of the 2017 Second Mortgage.
Section 3. Subject to the provisions of this resolution and the Lease Agreement, the Agency is hereby authorized to do all things necessary or appropriate for the execution, delivery and performance of the 2017 Second Mortgage and the 2017 Second Mortgage Loan Documents and such other related documents as may be necessary or appropriate to effect the 2017 Second Mortgage Loan, or any subsequent refinancing of the 2017 Second Mortgage Loan, and all acts heretofore taken by the Agency with respect to such financing or refinancing are hereby approved, ratified and confirmed.

Section 4. Subject to the provisions of this resolution and the Lease Agreement, the Agency hereby authorizes and approves the following economic benefits to be granted to the Company in the form of exemptions from mortgage recording taxes for one or more mortgages securing the principal amount presently estimated to be $600,000 but not to exceed $800,000, in connection with the financing or refinancing of the acquisition and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring and equipping of the Facility.

Section 5. Subject to the provisions of this resolution and the Lease Agreement,

(a) the Chairman, Executive Director, and all other members of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the 2017 Second Mortgage and the 2017 Second Mortgage Loan Documents together with such other related documents as may be, in the judgment of the Chairman and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the “Agency Documents”). The execution thereof by the Chairman, Executive Director, Deputy Executive Director or any member of the Agency shall constitute conclusive evidence of such approval; and

(b) the Chairman, Executive Director, Deputy Executive Director and any member of the Agency are further hereby authorized, on behalf of the Agency, to designate any additional authorized representatives of the Agency.

Section 6. Subject to the provisions of this resolution and the Lease Agreement, the officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments and documents, pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 7. Any expenses incurred by the Agency with respect to the financing or refinancing of the Facility shall be paid by the Company. By acceptance hereof, the Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action
taken by or on behalf of the Agency in good faith with respect to the financing or refinancing of the Facility.

Section 8. This resolution shall take effect immediately

ADOPTED: December 19, 2017

ACCEPTED: ________ 2017 ANDREASSI ASSOCIATES, LLC

By:________________________________________
Printed Name:
STATE OF NEW YORK )
    : SS:
COUNTY OF SUFFOLK )

I, the undersigned Assistant Secretary of the Town of Islip Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Town of Islip Industrial Development Agency (the “Agency”), including the resolutions contained therein, held on December 19, 2017, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Agency Documents contained in this transcript of proceedings is in substantially the form presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with the New York Open Meetings Law, constituting Chapter 511 of the Laws of 1976 of the State of New York, that all members of said Agency had due notice of said meeting and that the meeting was all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 19th day of December, 2017.

By: ________________________________
    Assistant Secretary
AGENDA ITEM # 9

TYPE OF RESOLUTION: AUTHORIZING RESOLUTION

COMPANY: BANCKER CONSTRUCTION CORPORATION/BEYER REALTY, INC.

PROJECT LOCATION: 171 FREEMAN AVE, ISLIP

JOBS (RETAINED/CREATED): RETAINED - 30 - CREATE - 15 -

INVESTMENT: $4,675,800
At a meeting of the Town of Islip Industrial Development Agency (the “Agency”), held at Islip Town Hall, 655 Main Street, Islip, New York on the 19th day of December, 2017 the following members of the Agency were:

Present:

Absent:

Also Present:

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to acquisition of title to a certain industrial development facility more particularly described below (Beyer Islip Realty LLC/Banker Construction Corp. 2017 Facility) and the leasing of the facility to Beyer Islip Realty LLC for further subleasing to Bancker Construction Corp.

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

Voting Aye

Voting Nay
RESOLUTION OF THE TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE ACQUISITION, RENOVATION AND EQUIPPING OF A CERTAIN INDUSTRIAL DEVELOPMENT FACILITY AND APPROVING THE APPOINTMENT OF BEYER ISLIP REALTY LLC, A NEW YORK LIMITED LIABILITY COMPANY, ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF BEYER ISLIP REALTY LLC AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING AND BANCER CONSTRUCTION CORP., A NEW YORK BUSINESS CORPORATION ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF BANCER CONSTRUCTION CORP. AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING, AS AGENT(S) OF THE AGENCY FOR THE PURPOSE OF ACQUIRING, RENOVATING AND EQUIPPING AN INDUSTRIAL DEVELOPMENT FACILITY AND APPROVING THE FORM, SUBSTANCE AND EXECUTION OF RELATED DOCUMENTS.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 47 of the Laws of 1974 of the State of New York, as amended from time to time (collectively, the “Act”), the Town of Islip Industrial Development Agency (the “Agency”) was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, Beyer Islip Realty LLC, a limited liability company organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Beyer Islip Realty LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Company”) and Bancker Construction Corp., a business corporation organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Bancker Construction Corp. and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Sublessee”), have applied to the Town of Islip Industrial Development Agency (the “Agency”), to enter into a transaction in which the Agency will assist in (a) the acquisition of an approximately 3.0 acre parcel of land located at 171 Freeman Avenue, Islip, New York 11751 (the “Land”), the renovation of approximately 12,000 square feet of an existing approximately 25,350 square foot building located thereon (the “Improvements”), and the acquisition and installation therein of certain equipment and personal property, not part of the Equipment (as such term is defined herein) (the “Facility Equipment”; and, together with the Land and the Improvements, the “Company Facility”), which Company Facility is to be leased by the Agency to the Company and further subleased by the Company to the Sublessee; and (b) the acquisition and
installation of certain equipment and personal property, including but not limited to a forklift, loader, tools and equipment to furnish a complete construction workshop, mechanical, electrical and plumbing facilities, information technology equipment, telecommunications equipment and full kitchen equipment (the “Equipment”; and together with the Company Facility, the “Facility”), which Equipment is to be leased by the Agency to the Sublessee and which Facility is to be used by the Sublessee as office, training, workshop and warehouse space in its business as a construction company (the “Project”); and

WHEREAS, the Agency, by resolution duly adopted on November 21, 2017 (the “Inducement Resolution”), decided to proceed under the provisions of the Act; and

WHEREAS, while the Company and the Sublessee have represented to the Agency that the approval of the Facility will result in the closure of a plant located at 218 Blydenburgh Road, Islandia, New York and the Agency would otherwise be prohibited from granting benefits pursuant to the provisions of Section 862 of the Act; and

WHEREAS, based upon the representations of the Company and the Sublessee in the Application for financial assistance filed by the Company and the Sublessees with the Agency (the “Application”), the closure of the plant is reasonably necessary for the Company and the Sublessee to maintain their competitive position in their respective industries and therefore not subject to the prohibitions contained in Section 862 of the Act; and

WHEREAS, the Agency has given due consideration to the application of the Company and the Sublessee and to representations by the Company and the Sublessee that the proposed financial assistance is either an inducement to the Company and the Sublessee to maintain the Facility in the Town of Islip or is necessary to maintain the competitive position of the Company and the Sublessee in their respective industries; and

WHEREAS, in accordance with Section 859-a(5)(d) of the Act, the Agency has notified the chief executive officers Village of Islandia, the Town of Islip and Suffolk County of the removal of the Company’s and/or Sublessee’s facility in Islandia, New York and its relocation within the Town of Islip, Suffolk County; and

WHEREAS, the Agency will acquire a leasehold interest in the Land and the Improvements pursuant to a certain Company Lease Agreement, dated as of December 1, 2017 or such other date as the Chairman, the Executive Director or the Deputy Executive Director of the Agency and counsel to the Agency shall agree (the “Company Lease”), by and between the Company and the Agency; and

WHEREAS, the Agency will acquire title to the Facility Equipment pursuant to a certain Bill of Sale, dated the Closing Date (as defined in the hereinafter defined Lease Agreement) (the “Bill of Sale”), from the Company to the Agency; and

WHEREAS, the Agency will sublease and lease the Company Facility to the Company pursuant to a certain Lease and Project Agreement, dated as of December 1, 2017 or such other date as the Chairman, the Executive Director or the Deputy Executive Director
of the Agency and counsel to the Agency shall agree (the “Lease Agreement”), by and between the Agency and the Company; and

WHEREAS, the Agency will acquire title to the Equipment pursuant to a certain Equipment Bill of Sale (the “Equipment Bill of Sale”), from the Sublessee to the Agency; and

WHEREAS, the Agency will lease the Equipment to the Sublessee pursuant to a certain Equipment Lease Agreement, dated as of December 1, 2017 or such other date as the Chairman, the Executive Director or the Deputy Executive Director of the Agency and counsel to the Agency shall agree (the “Equipment Lease Agreement”), by and between the Agency and the Sublessee; and

WHEREAS, in connection with the subleasing of the Company Facility to the Sublessee, the Sublessee and the Agency will enter into a certain Agency Compliance Agreement, dated as of December 1, 2017 or such other date as the Chairman, the Executive Director, or the Deputy Executive Director of the Agency and counsel to the Agency shall agree (the “Agency Compliance Agreement”), whereby the Sublessee will provide certain assurances to the Agency with respect to the Facility; and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company and the Sublessee, in the form of (i) exemptions from mortgage recording taxes for one or more mortgages securing an amount presently estimated to be $2,540,000 but not to exceed $3,000,000 in connection with the financing of the acquisition, renovation and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, renovating and equipping the Facility, (ii) exemptions from sales and use taxes in an amount not to exceed $138,863, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, and (iii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit A hereof), all consistent with the policies of the Agency; and

WHEREAS, as security for a loan or loans (as such term is defined in the Lease Agreement), the Agency and the Company will execute and deliver to a lender or lenders not yet determined (collectively, the “Lender”), a mortgage or mortgages, and such other loan documents satisfactory to the Agency, upon advice of counsel, in both form and substance, as may be reasonably required by the Lender, to be dated a date to be determined, in connection with the financing, any refinancing or permanent financing of the costs of the acquisition, renovation and equipping of the Facility (collectively, the “Loan Documents”); and

WHEREAS, the Company and the Sublessee have agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated by the leasing of the Facility by the Agency to the Company and the Sublessee.

NOW, THEREFORE, BE IT RESOLVED by the Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. The Agency hereby finds and determines:
(a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(b) The Facility constitutes a “project”, as such term is defined in the Act; and

(c) The acquisition, renovation and equipping of the Company Facility, the leasing of the Company Facility to the Company, the subleasing of the Company Facility by the Company to the Sublessee, the acquisition and installation of the Equipment, and the leasing of the Equipment to the Sublessee will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Town of Islip, and the State of New York and improve their standard of living and thereby serve the public purposes of the Act.

(d) The acquisition, renovation and equipping of the Facility by the Agency is reasonably necessary to induce the Company and the Sublessee to maintain and expand their respective business operations in the Town of Islip.

(e) Based upon representations of the Company, the Sublessee and counsel to the Company and the Sublessee, the Facility conforms with the local zoning laws and planning regulations of the Town of Islip and all regional and local land use plans for the area in which the Facility is located.

(f) It is desirable and in the public interest for the Agency to lease the Company Facility to the Company and the Equipment to the Sublessee; and

(g) The Company Lease will be an effective instrument whereby the Agency leases the Land and the Improvements from the Company; and

(h) The Lease Agreement will be an effective instrument whereby the Agency leases and subleases the Company Facility to the Company, the Agency and the Company set forth the terms and conditions of their agreement regarding payments-in-lieu of taxes, the Company agrees to comply with all Environmental Laws (as defined therein) applicable to the Facility and will describe the circumstances in which the Agency may recapture some or all of the benefits granted to the Company; and

(i) The Equipment Lease Agreement will be an effective instrument whereby the Agency leases the Equipment to the Sublessee; and

(j) The Agency Compliance Agreement will be an effective instrument whereby the Sublessee will provide certain assurances to the Agency with respect to the Facility; and

(k) The Loan Documents to which the Agency is a party will be effective instruments whereby the Agency and the Company agree to secure the loan made to the Company by the Lender.

Section 2. The Agency has assessed all material information included in connection with the Company’s and Sublessee’s application for financial assistance,
including but not limited to, the cost-benefit analysis prepared by the Agency and such information has provided the Agency a reasonable basis for its decision to provide the financial assistance described herein to the Company and the Sublessee.

Section 3. In consequence of the foregoing, the Agency hereby determines to: (i) lease the Land and the Improvements from the Company pursuant to the Company Lease, (ii) execute, deliver and perform the Company Lease, (iii) sublease and lease the Company Facility to the Company pursuant to the Lease Agreement, (iv) execute, deliver and perform the Lease Agreement, (v) lease the Equipment to the Sublessee pursuant to the Equipment Lease Agreement, (vi) execute, deliver and perform the Equipment Lease Agreement, (vii) execute and deliver the Agency Compliance Agreement, (viii) grant a mortgage on and security interests in and to the Facility pursuant to the Loan Documents, and (ix) execute and deliver the Loan Documents to which the Agency is a party.

Section 4. The Agency is hereby authorized to acquire the real property and personal property described in Exhibit A and Exhibit B, respectively, to the Lease Agreement, and the personal property described in Exhibit A to the Equipment Lease Agreement and to do all things necessary or appropriate for the accomplishment thereof; and all acts heretofore taken by the Agency with respect to such acquisition are hereby approved, ratified and confirmed.

Section 5. The Agency is hereby authorized to execute and deliver the Loan Documents in connection with the financing of the costs of acquiring, renovating and equipping the Facility and any future Loan Documents in connection with any future refinancing or permanent financing of such costs of acquiring, renovating and equipping of the Facility without the need for any further or future approvals of the Agency.

Section 6. The Agency hereby authorizes and approves the following economic benefits to be granted to the Company and the Sublessee in connection with the acquisition, renovation and equipping of the Facility in the form of (i) exemptions from mortgage recording taxes for one or more mortgages securing an amount presently estimated to be $2,540,000 but not to exceed $3,000,000 in connection with the financing of the acquisition, renovation and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, renovating and equipping the Facility, (ii) exemptions from sales and use taxes in an amount not to exceed $138,863, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, and (iii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit A hereof), all consistent with the policies of the Agency.

Section 7. Subject to the provisions of this resolution, the Company and the Sublessee are herewith and hereby appointed the agents of the Agency to acquire, renovate and equip the Facility. The Company and the Sublessee are hereby empowered to delegate their respective status as agent of the Agency to their respective agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Company and the Sublessee may choose in order to acquire, renovate and equip the Facility. The Agency hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Company and the Sublessee as agents of the Agency solely for
purposes of making sales or leases of goods, services and supplies to the Facility, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Company and the Sublessee, as agents of the Agency, shall be deemed to be on behalf of the Agency and for the benefit of the Facility. This agency appointment expressly excludes the purchase by the Company and the Sublessee of any motor vehicles, including any cars, trucks, vans or buses which are licensed by the Department of Motor Vehicles for use on public highways or streets. The Company and the Sublessee shall indemnify the Agency with respect to any transaction of any kind between and among the agents, subagents, contractors, subcontractors, materialmen, vendors and/or suppliers and the Company and the Sublessee, as agent of the Agency. The aforesaid appointment of the Company and the Sublessee as agents of the Agency to acquire, renovate and equip the Facility shall expire at the earlier of (a) the completion of such activities and improvements, (b) a date which the Agency designates, or (c) the date on which the Company and/or the Sublessee have received exemptions from sales and use taxes in an amount not to exceed $138,863 in connection with the purchase or lease of equipment, building materials, services or other personal property; provided however, such appointment may be extended at the discretion of the Agency, upon the written request of the Company and/or the Sublessee if such activities and improvements are not completed by such time. The aforesaid appointment of the Company and the Sublessee is subject to the completion of the transaction and the execution of the documents contemplated by this resolution.

Section 8. The Company and the Sublessee hereby agree to comply with Section 875 of the Act. The Company and the Sublessee further agree that the tax exemptions and abatements provided pursuant to the Act and the appointment of the Company and the Sublessee as agents of the Agency pursuant to this Authorizing Resolution are subject to termination and recapture of benefits pursuant to Sections 859-a and 875 of the Act and the recapture provisions of the Lease Agreement and the Agency Compliance Agreement.

Section 9. The form and substance of the Company Lease, the Lease Agreement, the Equipment Lease Agreement, the Agency Compliance Agreement and the Loan Documents to which the Agency is a party (each in substantially the forms presented to or approved by the Agency and which, prior to the execution and delivery thereof, may be redated and renamed) are hereby approved.

Section 10. The Chairman, Vice Chairman, Executive Director, Deputy Executive Director or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Company Lease, the Lease Agreement, the Equipment Lease Agreement, the Agency Compliance Agreement and the Loan Documents to which the Agency is a party; all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, Vice Chairman, Executive Director, Deputy Executive Director or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman and counsel to the Agency, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the “Agency Documents”). The execution thereof by the Chairman, Vice Chairman, Executive Director, Deputy Executive Director or any member of the Agency shall constitute conclusive evidence of such approval.
Section 11. The Chairman, Vice Chairman, Executive Director, Deputy Executive Director or any member of the Agency are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 12. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments and documents, pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 13. This resolution shall take effect immediately.
STATE OF NEW YORK  
:

COUNTY OF SUFFOLK  

I, the undersigned Assistant Secretary of the Town of Islip Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Town of Islip Industrial Development Agency (the “Agency”), including the resolutions contained therein, held on the 19th day of December, 2017, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Agency Documents contained in this transcript of proceedings are each in substantially the form presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with the New York Open Meetings Law, constituting Chapter 511 of the Laws of 1976 of the State of New York, that all members of said Agency had due notice of said meeting and that the meeting was all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 19th day of December, 2017.

By: ________________________

Assistant Secretary
EXHIBIT A

Proposed PILOT Benefits

Formula for Payments-In-Lieu-of-Taxes: Town of Islip, (including any existing incorporated village and any village which may be incorporated after the date hereof, within which the Facility is wholly or partially located), Islip Union Free School District, Suffolk County and Appropriate Special Districts

Property Address: 171 Freeman Avenue, Islip, New York 11751

Definitions

Normal Tax Due = Those payments for taxes and assessments, other than special ad valorem levies, special assessments and service charges against real property located in the Town of Islip (including any existing incorporated village or any village which may be incorporated after the date hereof, within which the Facility is wholly or partially located) which are or may be imposed for special improvements or special district improvements, that the Company and/or the Sublessee would pay without exemption.

Payment

<table>
<thead>
<tr>
<th>Year</th>
<th>Payment Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018/19</td>
<td>100% Normal Tax Due on the taxable assessed value of $121,500</td>
</tr>
<tr>
<td>2019/20</td>
<td>100% Normal Tax Due on the taxable assessed value of $133,650</td>
</tr>
<tr>
<td>2020/21</td>
<td>100% Normal Tax Due on the taxable assessed value of $145,800</td>
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<td>2021/22</td>
<td>100% Normal Tax Due on the taxable assessed value of $157,950</td>
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<td>2022/23</td>
<td>100% Normal Tax Due on the taxable assessed value of $170,100</td>
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<td>2023/24</td>
<td>100% Normal Tax Due on the taxable assessed value of $182,250</td>
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<td>2024/25</td>
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<td>2026/27</td>
<td>100% Normal Tax Due on the taxable assessed value of $218,700</td>
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<td>2027/28</td>
<td>100% Normal Tax Due on the taxable assessed value of $230,850</td>
</tr>
<tr>
<td>2028/29</td>
<td>100% Normal Tax Due on the full assessed value</td>
</tr>
</tbody>
</table>
TOWN OF ISLIP
INDUSTRIAL DEVELOPMENT AGENCY
AGENDA ITEMS FOR DECEMBER 19, 2017

AGENDA ITEM # 10

TYPE OF RESOLUTION: AUTHORIZING RESOLUTION

COMPANY: WATER LILIES FOOD, INC.

PROJECT LOCATION: 1724 5TH AVE, BAY SHORE

JOBS (RETAINED/CREATED): RETAINED - 165 -
CREATE - 015 -

INVESTMENT: $8,000,000
At a meeting of the Town of Islip Industrial Development Agency (the "Agency"), held at Islip Town Hall, 655 Main Street, Islip, New York on the 19th day of December, 2017 the following members of the Agency were:

Present:

Absent:

Also Present:

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to a certain industrial development facility more particularly described below (Water Lilies Food, Inc. 2017 Facility) and the providing of sales tax exemption benefits.

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

Voting Ave          Voting Nay
RESOLUTION OF THE TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY TAKING OFFICIAL ACTION TOWARD AUTHORIZING SALES AND USE TAX BENEFITS FOR WATER LILIES FOOD INC. AND APPROVING THE FORM, SUBSTANCE AND EXECUTION OF RELATED DOCUMENTS.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended and Chapter 47 of the Laws of 1974 of the State of New York, as may be amended from time to time (collectively, the “Act”), the Town of Islip Industrial Development Agency (the “Agency”) was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, Water Lilies Food Inc., a business corporation organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Water Lilies Food Inc. and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Tenant”), has applied to the Town of Islip Industrial Development Agency (the “Agency”) to enter into a transaction in which the Agency will assist in the acquisition of a leasehold interest in a portion of the existing building located at 1724 Fifth Avenue, Bay Shore, New York 11706 (the “Building”), and the renovation and equipping thereof (the “Equipment”), to be used by the Tenant as a manufacturing and distribution facility in the Tenant’s business as a manufacturer of gourmet Asian foods (the “Demised Premises”); and

WHEREAS, the Agency has previously acquired a leasehold interest in the Building from Suffolk County Industrial LLC, a New York limited liability company (the “Owner”), is subleasing the Building to the Owner pursuant to a certain Lease and Project Agreement, dated as of October 1, 2016 (the “Lease Agreement”), by and between the Agency and the Owner and will consent to the further subleasing of the Building to the Tenant; and

WHEREAS, in connection with the renovation and equipping of the Demised Premises, the Agency contemplates that it will provide financial assistance to the Tenant in the form of exemptions from sales and use taxes in an amount not to exceed $422,625, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Demised Premises (the “Sales and Use Tax Benefits”); and

WHEREAS, in accordance with Section 859-a(5)(d) of the Act, the Agency notified the chief executive officers of the City of New York and Queens County of the removal of the Tenant’s facility in Astoria, New York and its relocation to the Town of Islip; and

WHEREAS, the Agency will acquire title to the Equipment pursuant to a certain Equipment Bill of Sale, dated the Closing Date (as such term is defined in the hereinafter defined Equipment Lease Agreement) (the “Equipment Bill of Sale”), from the Tenant to the Agency; and

WHEREAS, the Agency will lease the Equipment to the Tenant pursuant to a certain Equipment Lease Agreement, dated as of December 1, 2017 or such other date as the Chairman,
the Executive Director or the Deputy Executive Director of the Agency and counsel to the Agency shall agree (the “Equipment Lease Agreement”), by and between the Agency and the Tenant; and

WHEREAS, the Tenant has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction consisting of the renovation and equipping of the Demised Premises by the Tenant and the granting and use of the Sales and Use Tax Benefits.

NOW, THEREFORE, BE IT RESOLVED by the Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. The Agency hereby finds and determines:

(a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(b) The Demised Premises constitutes a “project”, as such term is defined in the Act; and

(c) The Sales and Use Tax Benefits will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the Town of Islip and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(d) The Sales and Use Tax Benefits are reasonably necessary to induce the Tenant to maintain and expand its business operations in the Town of Islip and the State of New York; and

(e) Based upon representations of the Tenant and counsel to the Tenant, the Demised Premises conforms with the local zoning laws and planning regulations of the Town of Islip and all regional and local land use plans for the area in which the Demised Premises is located; and

(f) The Equipment Lease Agreement will be an effective instrument wherein the Agency leases the Equipment to the Tenant and appoints the Tenant as its agent in connection with the acquisition, equipping and installation of the Demised Premises; and

(g) The Equipment Bill of Sale will be an effective instrument whereby the Tenant conveys the Equipment to the Agency.

Section 2. The Agency has assessed all material information included in connection with the Tenant’s application for financial assistance, including but not limited to, the cost-benefit analysis prepared by the Agency and such information has provided the Agency a reasonable basis for its decision to provide the financial assistance described herein to the Tenant.

Section 3. The Agency hereby approves the following economic benefits to be granted to the Tenant in the form of exemptions from sales and use taxes in an amount not to
exceed $422,625, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Demised Premises.

Section 4. In consequence of the foregoing, the Agency hereby (i) approves the Sales and Use Tax Benefits, (ii) will execute, deliver and perform the Equipment Lease Agreement, (iii) authorizes the execution and delivery of such other related documents as may be necessary and/or appropriate to effect the provisions of this Resolution.

Section 5.

(a) The Chairman, Executive Director, Deputy Executive Director and all members of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Equipment Lease Agreement in the form the Chairman, Executive Director, Deputy executive Director or any member of the Agency shall approve, and such other related documents respectively, as may be, in the judgment of the Chairman and Counsel to the Agency, necessary or appropriate to effect the transactions contemplated by this resolution including the Equipment Lease Agreement (hereinafter collectively called the “Agency Documents”). The execution thereof by the Chairman, Executive Director, Deputy Executive Director or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, Executive Director, Deputy Executive Director and all members of the Agency are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Equipment Lease Agreement).

Section 6. Subject to the provisions of this resolution, the Tenant is herewith and hereby appointed the agent of the Agency to acquire, renovate and equip the Demised Premises. The Tenant is hereby empowered to delegate its status as agent of the Agency to its agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Tenant may choose in order to acquire, renovate and equip the Demised Premises. The Agency hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Tenant as agents of the Agency solely for purposes of making sales or leases of goods, services and supplies to the Demised Premises, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Tenant, as agents of the Agency, shall be deemed to be on behalf of the Agency and for the benefit of the Demised Premises. This agency appointment expressly excludes the purchase by the Tenant of any motor vehicles, including any cars, trucks, vans or buses which are licensed by the Department of Motor Vehicles for use on public highways or streets. The Tenant shall indemnify the Agency with respect to any transaction of any kind between and among the agents, subagents, contractors, subcontractors, materialmen, vendors and/or suppliers and the Tenant, as agent of the Agency. The aforesaid appointment of the Tenant as agent of the Agency to acquire, renovate and equip the Demised Premises shall expire at the earlier of (a) the completion of such activities and improvements, (b) a date which the Agency designates, or (c) the date on which the Tenant has received exemptions from sales and use taxes in an amount not to exceed $422,625 in connection with the purchase or lease of equipment, building materials, services or other personal property; provided however, such appointment may be extended at the discretion of the Agency, upon the written request of the Tenant if such activities and improvements are not
completed by such time. The aforesaid appointment of the Tenant is subject to the execution of the documents contemplated by this resolution.

Section 7. The Tenant hereby agrees to comply with Section 875 of the Act. The Tenant further agrees that the tax exemptions and abatements provided pursuant to the Act and the appointment of the Tenant as agent of the Agency pursuant to this Authorizing Resolution are subject to termination and recapture of benefits pursuant to Sections 859-a and 875 of the Act and the recapture provisions of the Equipment Lease Agreement.

Section 8. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments and documents, pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 9. Counsel to the Agency and Nixon Peabody LLP, Transaction Counsel to the Agency are hereby authorized and directed to prepare, for submission to the Agency, and all documents necessary to effect the consent to the Sales and Use Tax Benefits described in the foregoing resolution.

Section 10. The Chairman, the Executive Director and any member of the Agency are each hereby authorized and directed (i) to distribute copies of this resolution to the Tenant, and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 11. This resolution shall take effect immediately.
STATE OF NEW YORK  
COUNTY OF SUFFOLK 

I, the undersigned Assistant Secretary of the Town of Islip Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Town of Islip Industrial Development Agency (the “Agency”), including the resolutions contained therein, held on the 19th day of December, 2017, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Agency Documents contained in this transcript of proceedings is in substantially the form presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with the New York Open Meetings Law, constituting Chapter 511 of the Laws of 1976 of the State of New York, that all members of said Agency had due notice of said meeting and that the meeting was all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 19th day of December, 2017.

By:__________________________
Assistant Secretary
Town of Islip
Industrial Development Agency
Agenda Items for December 19, 2017

Agenda Item # 11

Type of Resolution: Resolution Authorizing

Company: Camoin Associates

Project Location: Heartland Town Square Location

Jobs (Retained/Created): Retained --
Create --

Investment: N/A
WHEREAS, the Town of Islip Industrial Development Agency (the “Agency”) was created to promote, develop, encourage and assist in the acquisition, construction, improvement, maintenance, equipping and furnishing of certain industrial, manufacturing, warehousing, commercial, research and recreation facilities, in order to promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the Town of Islip, New York and of the State of New York and to improve their standard of living; and

WHEREAS, the Agency is current title holder of the Heartland Town Square property, a 452 acre parcel located at the former Pilgrim State Psychiatric Center; and

WHEREAS, the approved Heartland Town Square Phase I project consists of a mixed-use development, to be built over a period of twelve or more years on 113 acres which includes 3,504 residential units, 560,000 square feet of retail space, 626,000 square feet of Class A office space and 25,000 square feet of civic space; and

WHEREAS, the Agency wishes to analyze the public cost and revenue implications of the approved Heartland Town Square Phase I project, including the short and long term fiscal impacts it will have on local government; and

WHEREAS, the Agency previously contracted with Camoin Associates, 120 West Avenue, Suite 303, Saratoga Springs, New York 12866 for a similar Fiscal and Economic Impact Analysis for the entire Heartland Town Square project of 452 acres, 9,100 residential units, 1 million square feet of retail space and 3.2 million square feet of office space, and

WHEREAS, the Agency wishes to update that study to match the current approval of Phase I of the project, and

NOW, THEREFORE, on a motion of ___ seconded by ___

Be it approved

RESOLVED, that the Chairwoman is hereby authorized to execute a contract with Camoin Associates, 120 West Avenue, Suite 303, Saratoga Springs, New York 12866, for the terms of which agreement shall be subject to the approval of the Islip Town Attorney.
Proposal for the Heartland Town Square
Fiscal Impact Analysis Update:
Town of Islip Industrial Development Agency

October 30, 2017

Submitted to:
William G. Mannix
Town of Islip
Office of Purchasing
401 Main Street, Room 237
Islip, NY 11751

Prepared by:
camoin
associates

120 West Avenue, Suite 303
Saratoga Springs, NY 12866
518.899.2608
www.camoinassociates.com
Proposal Summary

It is with great pleasure that we submit our proposal for the Heartland Town Square Fiscal Impact Analysis Update. We are proposing to use our fiscal impact experts led by Michael N'dolo, Vice President, who will be the principal in charge of the analysis and analyst William Nedds will contribute research and additional analysis.

We understand that the Town of Islip Industrial Development Agency (TOIIIDA) is seeking to update and adjust certain assumptions of the 2016 analysis completed by Camoin, which estimated the likely fiscal impacts of the proposed Heartland Town Square project on local town government. TOIIIDA wishes to make adjustments to the original analysis to reflect economic and legislative trends that will likely impact the Project, in order to provide a more relevant and accurate estimated impact.

Specifically, TOIIIDA would like Camoin to:

- Focus specifically on Phase One of the project.
- Update the budget figures to reflect the most current town budget.
- Use the most recent development plan schedule provided by the developer with respect to the construction of various elements of the project.
- Take into consideration Islip’s bifurcated property tax system with respect to homestead and non-homestead tax rates and any short-term effects this system would have on the fiscal impacts of the project.

We will rely principally on the research and interviews we conducted for the original analysis and, to the extent possible, will not recreate research or re-conduct interviews.

Other key points from the proposal are summarized below:

Schedule: 2 Months
Key Staff: Principal: Michael N'dolo, Vice President
Analyst: William Nedds
Budget: $14,000
Scope of Services

1. Project Kickoff

For the Heartland Town Square Economic and Fiscal Impact Analysis Update, we will begin the project with a kickoff call between Camoin Associates and the designated representative(s) of TOIIA. TOIIA will provide us with all relevant updates to any planning documents describing the proposed Heartland Town Square (the “Project”) in terms of uses, square footages, cost of construction, timeline and phasing, etc. We will review the proposed concept and discuss any specific concerns of the TOIIA to address in the analysis.

**Deliverable:** Camoin Associates will summarize the results of this meeting and incorporate them into a detailed project management plan, which will guide the work process, deliverables, and schedule.

2. Data Collection

Camoin Associates will use the 2016 impact analysis as a blueprint to update the key assumptions we will later use in the analysis. This includes a host of assumptions that may need to be updated such as:

- **Technical information** with respect to engineering issues such as water, sewer and transportation infrastructure capacity and improvement costs, if applicable.
- We will review the **industry standards** we used previously with respect to public service demands, such as fire and ambulance calls, roadway maintenance intervals, etc.
- We will analyze the most current **town budget** to determine fixed and variable costs and revenues and update same into our report.
- We will review any anticipated **property tax abatements**, either from the TOIIA as a PILOT or through one of the various as-of-right abatements (e.g. 485x) and any anticipated **public investments** required for the Project.
- We will update the project schedule and, specifically, the phasing in of assessed valuation as it relates to Phase One of the Project, such information assumed to come from the developer and vetted by TOIIA.

Once we have these preliminary assumptions for all of the above categories, we will draft a technical memo to the TOIIA describing all the assumptions and values to use. TOIIA will review these assumptions. Following review, if there are values that are of particular concern (e.g. number of emergency response calls), we will undertake additional research to verify the reasonableness of the assumptions. However, for the most part, we will rely on the values we used previously in the original analysis.

**Deliverable:** Technical memo describing assumptions to be used in the updated analysis.

3. Economic Impact Modeling

A. Net New Calculation

We will carry forward our “net new” assumptions as used in the previous report.

B. Economic Impact from Residential Uses

Using the above assumptions on residential spending, we will calculate the direct effects of the Project, namely the jobs, wages and economic activity resulting from new household spending in the Town. We will employ the EMSI economic impact modeling platform to determine the indirect impacts that occur as follow-ons to these direct impacts, which include both (1) business-to-business purchases made by businesses affected by the new household
spending, and (2) the effects of employees of such businesses spending their wages in the local economy. Total economic impacts are the sum of direct and indirect effects.

C. Economic Impact from Non-Residential Uses

Likewise, for the non-residential uses, we will calculate the direct effects (jobs, wages, economic activity) resulting from the commercial, institutional and other aspects of the Project, after netting out any displacements within the Town. We will again employ the EMSI modeling platform to calculate the indirect impacts from business-to-business purchases and earnings spent locally.

D. Summary of Town Population and Employment Change

We will summarize the above into a concise description of the economic impacts of the Project, namely the various ways the residential and non-residential aspects of the project would contribute to the Town’s economy in terms of jobs, wages and economic activity.

4. Fiscal Impact Analysis

A. Variable Revenues and Costs

In the original report, Camoin Associates estimated variable revenues and expenses associated with the Project using a “marginal costing” technique. We will review each department’s particular sources of revenues and expenses to gauge total changes in revenues and expenditures. Each item of the Town’s budget will be reviewed again to determine if it will change as a result of the Project. For variable revenue and expense items that will change as a result of the Project, we will estimate the change using a factor based on standard metrics such as new residents or change in the total assessed value of the Town, and according to the development schedule updated in Task 1.

Camoin will rely exclusively on the interviews we conducted in the original analysis for the technical information to make estimates, particularly with respect to engineering issues related to needed infrastructure improvements. Camoin Associates will combine this information with the variable revenue and cost analysis results to calculate the new costs and revenues to each of the Town’s departments.

B. Property Tax Revenue

To determine property tax revenues to be received from the Project, we will first rely on figures provided to us for the anticipated change in assessed valuation, including any anticipated tax abatements/exemptions. Camoin will then work with the appropriate property tax assessing unit to determine a reasonable projection of the phase-in of taxable value of the Project once construction is complete and occupancy has been achieved. Taking into consideration any proposed property tax abatement requests, if applicable, Camoin will use current tax rates for the Town and Misc. Districts to calculate new property tax revenues for each jurisdiction and inflate such rates into the future as is reasonable.

C. Fiscal Impact Reporting

The net fiscal impact to the Town will be calculated for: (1) phase one of the Project, and (2) the entire build out of the Project. The net fiscal impact will also be calculated 10 years into the future and adjusted for inflation using standard methodologies.

Camoin Associates will determine the fiscal impacts that can be attributed to the residential and non-residential portions of the Project. To accomplish this, we determine the level of impact of each use type on each of the various
town functions and departments as certain town functions are more likely to be impacted by residential development rather than commercial, and vice-versa.

Based on our calculation of new employees and population, we will also determine revenue per-worker and revenue per-capita ratios. Similarly, we will also calculate cost per-worker and cost per-capita ratios.

5. Homestead Versus Non-Homestead Analysis

It is our understanding that the Town of Islip utilizes a bifurcated tax rate, with different tax rates established for “Homestead” and “Non-Homestead” properties. Article 19 of the Real Property Tax Law defines Homestead properties as “one, two and three family residential dwellings including condominiums and vacant land ten acres or less”. Therefore, the Project’s condos would be classified as Homestead, whereas all other aspects of the Project would be classified as Non-Homestead (include apartments, despite being residential in use). As a result of this, the estimated fiscal impact of all proposed residential condominiums will need to be calculated using a separate tax rate from the rest of the Project.

Given the bifurcated tax system and the impact of new Homestead and Non-Homestead properties on the existing tax base, and in consideration of the changes to the base allocation factor used to set future tax rates, we will assess the potential impact on the effective tax rates for both tax classifications.

In the event that our assessment finds that the effective tax rate for one or both classifications is disproportionately affected by the Project, we will note such fact and propose potential mitigating strategies.

6. Final Report

Camoin Associates will compile the results of the updated analysis into a draft final report (“Draft Report”). The Draft Report will include an executive summary written for a non-technical audience. Calculation tables and related research will be attached to the Draft Report. TOIIIDA will review the Draft Report and provide comments to Camoin Associates. Camoin will revise the report to reflect the IDA’s comments, and then issue a Final Report.

Deliverable: Camoin Associates will issue a Draft Report, including an executive summary that details the findings of the analysis. Camoin Associates will revise the Draft Report based on Client comments and issue a Final Report.

Client Tasks

Camoin will explicitly rely on TOIIIDA for certain critical information, including, but not limited to: (1) assessment valuations for each of the components of the Project, (2) information and projections about the bifurcated tax rates and the Project’s impact on those same tax rates, (3) phasing and schedule of the Project, (4) town budget, and (5) any other information necessary to our analysis.
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