

Amended & Restated UTEP Resolution

A regular meeting of the Nassau County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency located at 1550 Franklin Avenue, Mineola, County of Nassau, New York, on January 31, 2013, at 5:30 p.m., local time.

The meeting was called to order by the Chairman and, upon roll being called, the following members of the Agency were:

PRESENT:

Timothy Williams	Chairman
John Coumatos	Vice Chairman
Christopher Fusco	Asst. Secretary
John T. Ahern	

ABSENT:

Gary Weiss	Secretary
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THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Joseph J. Kearney	Executive Director
Joseph Foarile	Chief Financial Officer
Colleen Pereira	Administrative Director
Nicholas Terzulli	Director of Business Development
Mary Dolan Grippio	Chief Marketing Officer
Edward Ambrosino, Esq.	General Counsel
Paul O'Brien, Esq.	Bond/Transaction Counsel
Milan Tyler, Esq.	Bond/Transaction Counsel

The attached resolution no. 2013-01 was offered by J. Ahern, seconded by C. Fusco:

Resolution No. 2013-01

RESOLUTION OF THE NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY (THE "AGENCY") ADOPTING AN AMENDED AND
RESTATED UNIFORM TAX EXEMPTION POLICY AND ADDRESSING OTHER
MATTERS IN CONNECTION THEREWITH

WHEREAS, the Nassau County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act"), and Chapter 674 of the 1975 Laws of New York, as amended, constituting Section 922 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, industrial and commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, Section 874(4) of the Act requires that all industrial development agencies adopt a uniform tax exemption policy, which will apply to and govern the granting of "financial assistance" (as defined in Section 854 of the Act); and

WHEREAS, the Agency adopted its most recent uniform tax exemption policy by resolution of the members of the Agency adopted on June 22, 2011; and

WHEREAS, the Agency wishes to adopt an amended and restated uniform tax exemption policy (the "Restated Policy") to provide for certain additional programs, to make certain technical changes and to ensure continued compliance with current best practices in governance and applicable law, including, without limitation, Article 18-A of the General Municipal Law, the Public Authorities Accountability Act of 2005 and the Public Authorities Reform Act of 2009 (collectively, "Applicable Laws"); and

WHEREAS, the Agency sought input from all interested parties by publishing notice of a public hearing (the "Public Hearing") in *Newsday* on January 10, 2013 with respect to the Restated Policy and by conducting the public hearing on January 24, 2013 at the office of the Agency located at 1550 Franklin Avenue, Mineola, Nassau County, New York; and

WHEREAS, in addition, the Agency formally sought input from all affected tax jurisdictions in the County of Nassau by mailing notice of its consideration of the Restated Policy to all affected tax jurisdictions by letters dated January 10, 2013; and

WHEREAS, copies of all written comments of the public and governmental officials with respect to the Restated Policy have been provided to and considered in detail by the members of the Agency;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Agency hereby adopts the Restated Policy in the form annexed hereto as Exhibit A (the "Policy"). The Policy hereby replaces any and all uniform tax exemption policies heretofore adopted by the Agency and shall apply to all applications for financial assistance received on or after the date of adoption of this resolution.

Section 2. The Agency hereby authorizes and directs the Agency's Staff to post the Policy on the Agency's website and to make all other disclosures thereof required by Applicable Laws.

Section 3. This Resolution shall not preclude the Agency from adopting other or further policies relating to governance and activities of the Agency as determined from time to time by the members of the Agency.

Section 4. This Resolution shall take effect immediately.

ADOPTED: January 31, 2013

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

Timothy Williams	VOTING	Aye
John Coumatos	VOTING	Aye
Gary Weiss	EXCUSED	
Christopher Fusco	VOTING	Aye
John T. Ahern	VOTING	Aye

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned [Assistant] Secretary of the Nassau County Industrial Development Agency (the "Agency"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on January 31, 2013 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matter therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 8th day of January, 2013.



[Assistant] Secretary

(SEAL)

EXHIBIT A

Uniform Tax Exemption Policy

See Attached

Nassau County Industrial Development Agency
Uniform Tax Exemption Policy

Adopted January 31, 2013

The purposes of the Nassau County Industrial Development Agency (“the Agency”) include the promotion of economic development, the prevention of economic deterioration and the advancement of employment opportunities to improve the general prosperity and economic welfare of the people of Nassau County. The Agency assists in the development of projects that create and retain jobs, generate revenue for the economy of Nassau County and expand and diversify the County’s tax base. To do this, the Agency encourages the construction, acquisition, retention and/or expansion of certain Projects, as authorized by Article 18-A of the New York General Municipal Law (the “Act”) by providing financial assistance in the form of (i) sales and use tax exemptions; (ii) mortgage recording tax exemptions; (iii) real property tax abatements and (iv) the issuance of tax-exempt or taxable bonds where appropriate (collectively, “Financial Assistance”). That portion of Financial Assistance that concerns (i) sales and use tax exemptions, (ii) mortgage recording tax exemptions and (iii) real property tax abatements shall, for the purpose of this Uniform Tax Exemption Policy (the “Policy”), be collectively referred to as “Tax Abatements”.

The granting of Financial Assistance is governed by the policies and procedures of the Agency, the Act and applicable Federal and State common and statutory laws (collectively, the “Applicable Laws”).

As required by the Act, this Policy provides a uniform policy for the claiming of Tax Abatements and deviations thereto and supersedes and supplants any previous policy adopted by the Agency.

1. GENERAL PROCEDURE

a. The Applicable Laws determine those Projects that are eligible to receive Tax Abatements.

b. A company that desires to receive Tax Abatements (an “Applicant”) must present its proposal to the Agency in accordance with procedures adopted by the Agency, as same may be amended from time to time.

c. In conformity with its procedures, and in compliance with the Applicable Laws, the Agency may, in its sole discretion, approve a proposed project (a “Project”) by adopting an Inducement Resolution and thereafter proceed to Closing on such Project. For purposes of this Policy, the term “Closing” means the date the Agency acquires ownership, jurisdiction, supervision or control of a Project. The date on which the Closing occurs is referred to as the “Closing Date”. In determining whether to grant Financial Assistance for a Project in accordance with this Policy, the members of the Agency shall consider such factors as they deem relevant, including, without limitation, those factors set forth in Section 874(4)(a) of the Act.

d. At Closing, the Applicant will be required to execute documents that will (i) convey ownership, jurisdiction, supervision or control of the Project to the Agency and (ii) govern the terms and conditions pursuant to which the Agency shall grant Financial Assistance to the Applicant (such documents are referred to as the “Project Documents”).

2. SALES AND USE TAX EXEMPTION

a. “Personal Property”, as such term is hereinafter defined, that is purchased or leased in connection with a qualified Project shall be exempt from local and state sales and use taxes for the period commencing with the Closing and ending on the date (as such date may be extended in the sole discretion of the Agency) that the Project Documents require completion to occur in respect of the undertaking of the Project or other Project activities. “Personal Property” includes building materials, fixtures, furnishings and equipment, as well as certain services that may relate to any of the foregoing, provided that such purchases and equipment rentals and services are made by an entity as agent for the Agency.

b. Purchases, rentals of Personal Property and the use of services that are Personal Property will be fully exempt from local and New York State Sales and Use Taxes until the Project is required to have been completed (i.e. issuance of certificate of occupancy or similar event).

c. Operating and maintenance expenses of Projects are not incurred as agent of the Agency, and no sales tax exemption is provided for operating and maintenance expenses.

d. The Agency shall issue a letter that sets forth the parameters of the sales and use tax exemption (the “Tax Letter”).

e. The Tax Letter may be given prior to Closing if authorized by the Agency.

f. All Project Applicants must agree in writing to file with the New York State Department of Taxation, in form and at times required, an annual statement of the value of all sales and use taxes exemption claimed in connection with the Project in full compliance with Section 874(8) of the Act.

3. MORTGAGE RECORDING TAX EXEMPTION

a. The Mortgage Recording Tax Exemption permits mortgage recording tax exemptions on all Project-related financing to the full extent permitted by the Applicable Laws, whether or not the Agency has issued its bonds to finance the Project.

b. In addition, the Agency may, in its sole discretion, permit mortgage recording tax exemptions on non-Project related financings, (e.g. second mortgages on the Project to secure subordinated indebtedness of the Project Applicant). In determining whether to permit such exemptions on non-Project related financing, the Agency shall consider such factors as it deems appropriate, including, but not limited to, the following:

- i. The nature of the Project;
- ii. The degree of investment;
- iii. The degree and nature of the unemployment and the economic condition of the areas in which the Project is located;
- iv. The ability of the Project to achieve the goals of the Agency’s Strategic Financial Assistance Policy, as such may be amended from time to time;¹
- v. The environmental benefits of a Project, including, without limitation, the “Green” component and/or the LEED certification of any Project, if any;
- vi. The manner and extent to which the Project complies with the enumerated factors set forth in §874(4)(a) of the Act as amended from time to time; and
- vii. Consideration of other factors which, in the opinion of the members of the Agency, justify such exemption.

¹ A copy of the Strategic Assistance Policy is annexed hereto as Exhibit “A” and made a part hereof.

4. ABATEMENT OF REAL PROPERTY TAXES

a. PILOT Agreement

i. Each Project receiving abatement from real property tax will be required to execute and deliver a Payment in Lieu of Tax Agreement in a form acceptable to and prescribed by the Agency (the "PILOT Agreement").

ii. The Pilot Agreement shall be a Project Document.

iii. The Pilot Agreement, in addition to other terms and conditions contained therein, will generally:

(1) Itemize in a schedule the amount (or formula for determining the amount), duration and timing of the Payment In Lieu Of Taxes (the "PILOT") that will be due under the Pilot Agreement.

(2) Require that the Applicant and its successors pay the PILOT to the Treasurer of Nassau County who shall distribute the PILOT to those jurisdictions having taxing authority over the Project as if the Agency did not have ownership, jurisdiction, supervision or control of the Project (the "Affected Taxing Jurisdictions"). Other terms with respect the billing and collection of the PILOT are set forth in the Agency's standard form of PILOT Agreement, a copy of which is attached to this Policy as Exhibit B.

(3) Require the payment of any and all special district assessments and special ad valorem levies assessed against or levied upon the Project independently of and in addition to the PILOT payments (collectively, "Special Assessments"), whether by the Nassau County Tax Assessor's Office (or other village or city assessor) or otherwise, as may be required by law from time to time, notwithstanding the Agency's ownership, jurisdiction, supervision or control of the Project, subject to the terms of this Policy.

(4) Require the execution, delivery and filing of a mortgage to secure the PILOT payments to the Treasurer of Nassau County, unless otherwise determined by the members of the Agency.

(5) Require the Recapture of Benefits in certain circumstances.

b. SCHEDULE AND ALLOCATION OF PILOT

i. The schedule used to calculate PILOT payments and the amount of such payments is not set forth in the Act. PILOT payments must be made in accordance with the PILOT payment schedules included within this Policy or be based on an approved deviation.

ii. Unless otherwise agreed by the Affected Taxing Jurisdictions, such PILOT Agreement payments shall be allocated among the affected taxing jurisdictions in proportion to the amount of real property tax and other taxes that would have been received by each Affected Taxing Jurisdiction if the Agency did not have ownership, jurisdiction, supervision or control of the Project.

iii. Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, no real estate tax exemption with respect to a particular Project shall be effective until an Exemption Form is filed with the Assessor of Nassau County and any Village or City if such Project is located in a Village or City with an Assessing Unit other than the County of Nassau.

iv. Once an Exemption Form with respect to a particular Project is properly filed, the real property tax exemption for such Project shall not take effect earlier than the last to occur of the following: (1) the first tax status date for such Affected Taxing Jurisdiction subsequent to such filing; and (2) the first day of a tax year for such Affected Tax Jurisdiction subsequent to such tax status date; provided, however, that (i) the foregoing shall not apply, in the discretion of the Agency, if the Project is otherwise entitled to an exemption from real property taxation at the time the Agency acquires ownership, jurisdiction, supervision or control of the Project, and (ii) the Agency, in its discretion, may elect that the real property tax exemption take effect on a date later than the provisions of (1) and (2) above would require.

c. PILOT FOR A NEW CONSTRUCTION PROJECT

i. For purposes of this Policy, the term “New Construction Project” shall mean (i) the construction of a building on vacant, unimproved land or (ii) construction of an improvement or additional building(s) on an improved land that has a taxable assessed value of \$0.00 or other de minimis amount as determined by the Nassau County Department of Assessment and, if in an incorporated Village or City, the Assessing Unit of such Village or City.

ii. An Applicant that is developing a New Construction Project shall enter into a PILOT Agreement that shall commence on the Closing Date of the Project transaction (the "Commencement Date").

iii. The duration of the PILOT Agreement shall be ten (10) years commencing on the "Effective Date" for each Affected Taxing Jurisdiction. The "Effective Date" for each Affected Taxing Jurisdiction shall be the first day of the first tax year occurring after the first tax status date occurring after the Closing of the Project, subject to Section 4(b)(iv) of this Policy.

iv. The amount of the New Construction Project PILOT shall be computed as follows:

(1) For the period commencing on the Commencement Date to and including the day prior to the Effective Date, the PILOT shall be equal to one hundred percent (100%) of the taxes and assessments that would be levied upon the Project by the respective Affected Taxing Jurisdictions without taking into consideration the transfer of ownership, jurisdiction, supervision or control of the Project to the Agency.

(2) For the period commencing on the Effective Date and continuing for ten (10) full tax years thereafter, the amount of the PILOT shall be the sum of the LAND PILOT and the IMPROVEMENT PILOT, as phased in as set forth in Schedule A annexed hereto and made a part hereof.

(a) The LAND PILOT shall be equal to the product of (i) the assessed value, as determined by the Agency, that should apply to the land as of the Closing Date, and (ii) most recent tax rate data available to the Agency as of the Closing Date. The Agency shall determine the assessed value that should apply to the land as of the Closing Date and may accept input, in its discretion, from governmental assessing authorities and/or use independent consultants to assist in the determination of the assessed value, the cost of which shall be borne by the Applicant. In accordance with Section 11 of this Policy, the LAND PILOT shall be reduced by the amount of Special Assessments, if any. The LAND PILOT shall not otherwise decrease or increase over the duration of the PILOT Agreement.

(b) The IMPROVEMENT PILOT shall be the product of (i) the “Assessed Value of the Improvement”, as defined below; (ii) the “PILOT RATE”, as defined below and (iii) the number .01.

(3) The “Assessed Value of the Improvement” shall be the assessed value of the Project, less the assessed value of the land.

(4) The “Assessed Value of the Improvement” shall be computed as follows:

(a) The fair market value of the improvement, computed as of the estimated date of completion, shall be determined by the Agency at or prior to Closing, using an accepted methodology including, but not limited to, income capitalization, cost of construction or sales comparison. The fair market value of the improvement shall not include the value of the land. The Agency may, in its sole discretion, accept input from the Assessor of Nassau County (or other village or city assessor) and/or use independent consultants to assist in the computation of fair market value, the cost of which assessors and/or consultants shall be borne by the Applicant.

(b) The fair market value of the improvement shall then be multiplied by the Level of Assessment used by the Assessor of Nassau County as of the year in which the Closing occurs.

(c) The product of the fair market value of the improvement and the Level of Assessment shall be the Assessed Value of the Improvement.

(5) The “PILOT RATE” shall be the sum of all “Applicable Tax Rates Per Hundred”, exclusive of rates used to compute Special Assessments, if any.

(a) For property located outside of an incorporated Village and outside of a City, the “Applicable Tax Rates Per Hundred” shall be the total of all tax rates applicable to the property, exclusive of rates used to compute Special Assessments, if any. The “Applicable Tax Rates Per Hundred” shall be evidenced by School Tax Bills and General Tax Bills based on the most recent data available to the Agency as of the year that Closing has occurred with the Agency.

(b) For property located within an incorporated Village, the “Applicable Tax Rates Per Hundred” shall be the total of all tax rates

applicable to the property, exclusive of rates used to compute Special Assessments, if any. The “Applicable Tax Rates Per Hundred” shall be evidenced by School Tax Bills, General Tax Bills and Village Tax Bills based on the most recent data available to the Agency as of the year that Closing has occurred with the Agency. If a Village does not use the Nassau County Assessment Roll to compute Village Taxes, the Village tax rate shall be equalized so that the tax rate reflected on the Village Tax Bills is adjusted so that it is based on an assessed value that is equal to the Assessed Value of the Improvement.

(c) For property located within a City, the “Applicable Tax Rates Per Hundred” shall be the total of all tax rates applicable to the property, exclusive of rates used to compute Special Assessments, if any. The “Applicable Tax Rates Per Hundred” shall be evidenced by School Tax Bills, General Tax Bills and City Tax Bills based on the most recent data available to the Agency as of the year that Closing has occurred with the Agency. If a City does not use the Nassau County Assessment Roll to compute City Taxes, the City tax rate shall be equalized so that the tax rate reflected on the City Tax Bills is adjusted so that it is based on an assessed value that is equal to the Assessed Value of the Improvement.

(d) If property is located partially within an incorporated Village and partially without an incorporated Village, the “Applicable Tax Rates Per Hundred” shall be the total of all tax rates applicable to the property, exclusive of rates used to compute Special Assessments, if any. The “Applicable Tax Rates Per Hundred” shall be evidenced by School Tax Bills, General Tax Bills and Village Tax Bills based on the most recent data available to the Agency as of the year that Closing has occurred with the Agency. If a Village does not use the Nassau County Assessment Roll to compute Village Taxes, the Village tax rate shall be equalized so that the tax rate reflected on the Village Tax Bills is adjusted so that it is based on an assessed value that is equal to the Assessed Value of the Improvement.

(e) If property is located partially within a City and partially without a City, the “Applicable Tax Rates Per Hundred” shall be the total of all tax rates applicable to the property, exclusive of rates used to compute Special Assessments, if any. The “Applicable Tax Rates Per Hundred” shall be evidenced by School Tax Bills, General Tax Bills and City Tax Bills based on the most recent data

available to the Agency as of the year that Closing has occurred with the Agency. If a City does not use the Nassau County Assessment Roll to compute City Taxes, the City tax rate shall be equalized so that the tax rate reflected on the City Tax Bills is adjusted so that it is based on an assessed value that is equal to the Assessed Value of the Improvement.

v. The amount of the PILOT for a New Construction Project shall be adjusted and phased in as set forth in Schedule A attached hereto which is incorporated herein with the same force and effect as if more fully set forth at length herein.

d. PILOT SCHEDULE FOR AN IMPROVEMENT PROJECT

i. For purposes of this Policy, the term “Improvement Project” shall mean (i) the construction of an addition, improvement, rehabilitation, modification or similar work to an existing building or buildings or (ii) the construction of an additional building or buildings on a tax lot that is improved with a building or buildings.

ii. An Applicant that is developing an Improvement Project shall enter into a PILOT Agreement that shall commence on the Closing Date of the Project transaction (the “Commencement Date”).

iii. The duration of the PILOT Agreement shall be ten (10) years commencing on the “Effective Date” for each Affected Taxing Jurisdiction. The “Effective Date” for each Affected Taxing Jurisdiction shall be the first day of the first tax year occurring after the first tax status date occurring after the Closing of the Project, subject to Section 4(b)(iv) of this Policy.

iv. The amount of the Improvement Project PILOT shall be computed as follows:

(1) For the period commencing on the Commencement Date to and including the day prior to the Effective Date, the PILOT shall be equal to one hundred percent (100%) of the taxes and assessments that would be levied upon the Project by the respective Affected Taxing Jurisdictions without taking into consideration the transfer of ownership, jurisdiction, supervision or control of the Project to the Agency.

(2) For the period commencing on the Effective Date and continuing for ten (10) full tax years thereafter, the amount of the PILOT shall be the sum

of the BASE PILOT and the IMPROVEMENT PILOT, as phased in as set forth in Schedule B annexed hereto and made a part hereof.

(a) The BASE PILOT shall be equal to the product of (i) the assessed value, as determined by the Agency, that should apply to the improved land as of the Closing Date, and (ii) most recent tax rate data available to the Agency as of the Closing Date. The Agency shall determine the assessed value that should apply to the improved land as of the Closing Date and may accept input, in its discretion, from governmental assessing authorities and/or use independent consultants to assist in the determination of the assessed value, the cost of which shall be borne by the Applicant. In accordance with Section 11 of this Policy, the BASE PILOT shall be reduced by the amount of Special Assessments, if any. The BASE PILOT shall not otherwise decrease or increase over the duration of the PILOT Agreement.

(b) The IMPROVEMENT PILOT shall be the product of (i) the "Assessed Value of the Improvement", as defined below; (ii) the "PILOT RATE", as defined below and (iii) the number .01.

(3) The "Assessed Value of the Improvement" shall be the assessed value of the Project, less the assessed value of the improved land immediately prior to undertaking of the Project.

(4) The "Assessed Value of the Improvement" shall be computed as follows:

(a) The fair market value of the improvement, computed as of the estimated date of completion, shall be determined by the Agency at or prior to Closing using an accepted methodology including, but not limited to, income capitalization, cost of construction or sales comparison. The fair market value of the improvement shall not include the value of the improved land immediately prior to the undertaking of the Project. The Agency may accept input from the Assessor of Nassau County (or other village or city assessor) and/or use independent consultants to assist in the computation of fair market value, the cost of which shall be borne by the Applicant.

(b) The fair market value of the improvement (less the fair market value of the improved land immediately prior to the undertaking of

the Project) shall then be multiplied by the Level of Assessment used by the Assessor of Nassau County as of the year in which the Closing occurs.

(c) The product of the fair market value of the improvement (less the fair market value of the improved land immediately prior to undertaking of the Project) and the Level of Assessment shall be the Assessed Value of the Improvement.

(5) The "PILOT RATE" shall be the sum of all "Applicable Tax Rates Per Hundred", exclusive of rates used to compute Special Assessments, if any.

(a) For property located outside of an incorporated Village and outside of a City, the "Applicable Tax Rates Per Hundred" shall be the total of all tax rates applicable to the property, exclusive of rates used to compute Special Assessments, if any. The "Applicable Tax Rates Per Hundred" shall be evidenced by School Tax Bills and General Tax Bills based on the most recent data available to the Agency as of the year that Closing has occurred with the Agency.

(b) For property located within an incorporated Village, the "Applicable Tax Rates Per Hundred" shall be the total of all tax rates applicable to the property, exclusive of rates used to compute Special Assessments, if any. The "Applicable Tax Rates Per Hundred" shall be evidenced by School Tax Bills, General Tax Bills and Village Tax Bills based on the most recent data available to the Agency as of the year that that Closing has occurred with the Agency. If a Village does not use the Nassau County Assessment Roll to compute Village Taxes, the Village tax rate shall be equalized so that the tax rate reflected on the Village Tax Bills is adjusted so that it is based on an assessed value that is equal to the Assessed Value of the Improvement.

(c) For property located within a City, the "Applicable Tax Rates Per Hundred" shall be the total of all tax rates applicable to the property, exclusive of rates used to compute Special Assessments, if any. The "Applicable Tax Rates Per Hundred" shall be evidenced by School Tax Bills, General Tax Bills and City Tax Bills based on the most recent data available to the Agency as of the year that Closing has occurred with the Agency. If a City does not use the Nassau County Assessment Roll to compute City Taxes, the City tax rate shall be equalized so

that the tax rate reflected on the City Tax Bills is adjusted so that it is based on an assessed value that is equal to the Assessed Value of the Improvement.

(d) If property is located partially within an incorporated Village and partially without an incorporated Village, the “Applicable Tax Rates Per Hundred” shall be the total of all tax rates applicable to the property, exclusive of rates used to compute Special Assessments, if any. The “Applicable Tax Rates Per Hundred” shall be evidenced by School Tax Bills, General Tax Bills and Village Tax Bills based on the most recent data available to the Agency as of the year that Closing has occurred with the Agency. If a Village does not use the Nassau County Assessment Roll to compute Village Taxes, the Village tax rate shall be equalized so that the tax rate reflected on the Village Tax Bills is adjusted so that it is based on an assessed value that is equal to the Assessed Value of the Improvement.

(e) If property is located partially within a City and partially without a City, the “Applicable Tax Rates Per Hundred” shall be the total of all tax rates applicable to the property, exclusive of rates used to compute Special Assessments, if any. The “Applicable Tax Rates Per Hundred” shall be evidenced by School Tax Bills, General Tax Bills and City Tax Bills based on the most recent data available to the Agency as of the year that Closing has occurred with the Agency. If a City does not use the Nassau County Assessment Roll to compute City Taxes, the City tax rate shall be equalized so that the tax rate reflected on the City Tax Bills is adjusted so that it is based on an assessed value that is equal to the Assessed Value of the Improvement.

v. The amount of the PILOT for an Improvement Project shall be adjusted and phased in as set forth in Schedule B attached hereto which is incorporated herein with the same force and effect as if more fully set forth at length herein.

e. PILOT SCHEDULE FOR AN ADAPTIVE REUSE PROJECT.

i. For purposes of this Policy, the term “Adaptive Reuse Project” shall mean a Project involving the acquisition, renovation, installation and/or equipping of a Project property without material improvement or expansion.

ii. An Applicant that is developing an Adaptive Reuse Project shall enter into a PILOT Agreement that shall commence on the Closing Date of the Project transaction (the “Commencement Date”).

iii. The duration of the PILOT Agreement shall be ten (10) years commencing on the “Effective Date” for each Affected Taxing Jurisdiction. The “Effective Date” for each Affected Taxing Jurisdiction shall be the first day of the first tax year occurring after the first tax status date occurring after the Closing Date of the Project transaction, subject to Section 4(b)(iv) of this Policy.

iv. The amount of the Adaptive Reuse Project PILOT shall be computed as follows:

(1) For the period commencing on the Commencement Date to and including the day prior to the Effective Date, the PILOT shall be equal to one hundred percent (100%) of the taxes and assessment that would be levied upon the Project by the respective Affected Taxing Jurisdictions without taking into consideration the transfer of ownership, jurisdiction, supervision or control of the Project to the Agency.

(2) For the period commencing on the Effective Date and continuing for ten (10) full tax years thereafter, the amount of the PILOT shall be equal to the BASE PILOT adjusted as set forth below.

(a) The BASE PILOT shall be equal to the product of (i) the assessed value, as determined by the Agency, that should apply to the improved Project property as of the Closing Date, and (ii) most recent tax rate data available to the Agency as of the Closing Date. The Agency shall determine the assessed value that should apply to the improved Project property as of the Closing Date and may accept input, in its discretion, from governmental assessing authorities and/or use independent consultants to assist in the determination of the assessed value, the cost of which shall be borne by the Applicant.

(b) The BASE PILOT shall be payable each tax year for a period of ten (10) full tax years, with annual increases of two percent (2%) per year (compounded) each tax year after the third (3rd) tax year (i.e., Years 4-10 of the term of the PILOT).

(c) In accordance with Section 11 of this Policy, the BASE PILOT shall be reduced by the amount of Special Assessments, if any. The BASE PILOT shall not otherwise decrease or increase over the duration of the PILOT Agreement.

5. DEVIATION FROM PILOT

a. The Agency shall have the right, but not the obligation, to deviate from the PILOT schedules set forth in sections 4.c. , 4.d. and 4.e. of this Policy in terms of duration, amounts and phase-in of such PILOT, as applicable.

b. Such deviation may be considered by the Agency upon request of the Applicant or upon its own motion.

c. Any such deviation will be made only with the specific approval of the Agency's members after giving consideration to the following factors:

i. The ability of the Project to achieve the goals of the Agency's Strategic Financial Assistance Policy, as it may be amended from time to time²;

ii. The environmental benefits of a Project, including, without limitation, the "Green" component and/or the LEED certification of a Project, if any;

iii. The manner and extent to which the Project complies with the enumerated factors set forth in §874(4)(a) of the Act as amended from time to time;

iv. Any comments from Affected Taxing Jurisdictions;

v. Consideration of other factors, which in the opinion of the Agency justify such deviation.

d. Prior to granting any such deviation, the Agency shall notify the Affected Taxing Jurisdictions of the proposed deviation and the reasons therefore, as required by the Act.

6. RECAPTURE

a. A Recapture Event is defined as:

i. A finding by the Agency that an Applicant has submitted an application, or documentation in support of an application that contained a false or intentionally misleading statement as to any fact which is material to the Project Applicant's application for benefits or which omitted any information which, if included, would have rendered any information in the application or supporting documentation false or misleading in any material respect, and that such false or misleading statement or omission was made knowingly and intentionally for the purpose of obtaining Financial Assistance; or

ii. A "Recapture Event" as defined by any of the Project Documents.

² A copy of the Strategic Assistance Policy is annexed hereto as Exhibit "A" and made a part hereof.

b. The term “Benefits” shall mean all direct monetary benefits, tax exemptions and other financial assistance, if any, derived solely from the Agency’s participation in the transaction contemplated by the Project Documents including, but not limited to, the interest savings to an Applicant resulting from the issuance of tax exempt or taxable bonds by the Agency, plus the amount equal to 100% of any exemption from any applicable mortgage recording tax with respect to the Project on mortgages granted by the Agency, sales or use tax exemptions and real property tax abatements granted under the Project.

c. Upon a finding by the Agency that a Recapture Event has occurred and subject to the provisions of the Project Documents, the Agency may require the Applicant to pay to the Agency for its corporate purposes (unless otherwise determined by a resolution of the members of the Agency) as a return of Benefits conferred by the Agency, an amount as follows (the “Recapture Schedule”):

- i. one hundred per cent (100%) of the Benefits if the Recapture Event occurs on or before the fifth (5th) anniversary of the Closing;
- ii. eighty per cent (80%) of the Benefits if the Recapture Event occurs after the fifth (5th) anniversary of the Closing but on or before the sixth (6th) anniversary of the Closing;
- iii. sixty per cent (60%) of the Benefits if the Recapture Event occurs after the sixth (6th) anniversary of the Closing but on or before the seventh (7th) anniversary of the Closing Date;
- iv. forty per cent (40%) of the Benefits if the Recapture Event occurs after the seventh (7th) anniversary of the Closing but on or before the eighth (8th) anniversary of the Closing Date;
- v. twenty per cent (20%) of the Benefits if the Recapture Event occurs after the eighth (8th) anniversary of the Closing but on or before the ninth (9th) anniversary of the Closing Date;
- vi. ten per cent (10%) of the Benefits if the Recapture Event occurs after the ninth (9th) anniversary of the Closing but on or before the tenth (10th) anniversary of the Closing; or
- vii. zero percent (0%) of the Benefits thereafter.

d. Notwithstanding the foregoing, if the Agency grants an exemption from real property taxes for a period of more than ten (10) years, then the Recapture Schedule shall be as follows:

i. one hundred per cent (100%) of the Benefits if the Recapture Event occurs when fifty percent (50%) or more of the total term of the PILOT Agreement would remain after the date of the Recapture Event (measured as if the Project Documents are not terminated);

ii. eighty per cent (80%) of the Benefits if the Recapture Event occurs when less than fifty percent (50%) but forty percent (40%) or more of the total term of the PILOT Agreement would remain after the date of the Recapture Event (measured as if the Project Documents are not terminated);

iii. sixty per cent (60%) of the Benefits if the Recapture Event occurs when less than forty percent (40%) but thirty percent (30%) or more of the total term of the PILOT Agreement would remain after the date of the Recapture Event (measured as if the Project Documents are not terminated);

iv. forty per cent (40%) of the Benefits if the Recapture Event occurs when less than thirty percent (30%) but twenty percent (20%) or more of the total term of the PILOT Agreement would remain after the date of the Recapture Event (measured as if the Project Documents are not terminated);

v. twenty per cent (20%) of the Benefits if the Recapture Event occurs when less than twenty percent (20%) but ten percent (10%) or more of the total term of the PILOT Agreement would remain after the date of the Recapture Event (measured as if the Project Documents are not terminated); or

vi. ten per cent (10%) of the Benefits if the Recapture Event occurs when less than ten percent (10%) of the total term of the PILOT Agreement would remain after the date of the Recapture Event (measured as if the Project Documents are not terminated); or

vii. zero percent (0%) of the Benefits after the term of the PILOT Agreement has expired.

e. Notwithstanding anything to the contrary contained above, the good faith failure of an Applicant to meet any specific employment numbers set forth in the Application or documentation supporting the application shall not be deemed to be false or misleading in any material respect.

f. Subject to the provisions of the Project Documents, conditions reflective of the Company's business cycle or conditions, including loss of major sales, revenues, distribution or other adverse business developments and/or local, national or international economic conditions, trade issues or industry wide conditions may be taken into consideration by the Agency before determining whether a Recapture Event has occurred.

7. EFFECTIVE DATE

a. This Policy shall be effective as of January 31, 2013 and shall apply to all Projects that the Agency approves after January 31, 2013. It shall not, however, apply to any Projects approved by the Agency on or prior to January 31, 2013 whether or not such Projects are subsequently refinanced or modified.

8. AMENDMENTS

a. The Agency, by resolution of its members, may amend or modify this Policy as it may, from time to time, in its sole discretion determine.

9. RELATIONSHIP WITH PROJECT DOCUMENTS

a. This Policy is intended to be a guide to the granting of Financial Assistance by the Agency.

b. In the event that there is an inconsistency between this Policy and any Project Document, the terms and conditions of the Project Document shall prevail.

10. SEVERABILITY

a. If any portion of this Policy is found by a Court of competent jurisdiction to be illegal, invalid or unenforceable, the remainder of the Policy shall not be affected and, in lieu of any provision that is found to be illegal, invalid or unenforceable, a provision that is as similar to the illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable will be submitted to the members of the Agency for consideration and adoption.

11. SPECIAL ASSESSMENTS ADJUSTMENT

PILOT Agreements will typically provide that the amount of the PILOT payments under a PILOT Agreement for each fiscal tax year, shall be reduced (but not below \$0) by the amount, if any, of Special Assessments assessed against or levied upon the Project. The amount of any such reduction of a PILOT payment shall be set forth on the applicable PILOT bill issued with respect to such fiscal tax year, if any, but the failure of the Applicant to receive such bill shall in no event affect the Applicant's obligation to pay such PILOT payment. In the event that (i) the amount of Special Assessments for a particular fiscal tax year exceeds the amount of the applicable PILOT payments for such fiscal tax year (such excess is hereinafter referred to as an "SA Credit"), or (ii) the amount of the applicable PILOT payment for a particular fiscal tax year is not reduced by the amount of Special Assessments for such fiscal tax year (the amount of such Special Assessments is hereinafter referred to as an "SA Reduction"), then the amount of such SA Credit or SA Reduction, as the case may be, shall be carried over as a credit for the following fiscal tax year(s); provided, however, that if there is an unused SA Credit at the end of the term of the PILOT payments under the PILOT Agreement, then the Applicant shall not be entitled to (a) take such SA Credit against any further payments hereunder or against real property taxes assessed against the Project, or (b) an extension of the term of the PILOT Agreement.

EXHIBIT A
STRATEGIC FINANCIAL ASSISTANCE POLICY
NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Strategic Financial Assistance Policy

The Nassau County Industrial Development Agency (the "Agency") is charged, pursuant to Article 18-A of the New York State General Municipal Law (as amended from time to time, the "Act"), with the purposes of, among others, promoting, developing, encouraging and assisting in industrial, manufacturing, warehousing, commercial, research and recreational facilities (including educational and cultural facilities among others) and thereby advancing the job opportunities, health, general prosperity and economic welfare of the people of Nassau County and of the State of New York. Toward that end, the Agency has been granted a number of powers under the Act. The purpose of this policy is to enumerate the strategic policies of the Agency, as general guidelines, in awarding "financial assistance" under the Act.

The Agency desires to encourage any and all "projects" authorized under the Act. However, the Agency may give special consideration to any project that advances one or more of the following public policy goals:

A. retaining and attracting "knowledge based" industries and services which: (1) produce high-technology goods, and/or (2) are intensive users of high technology and/or employ the highly skilled workforce that is required to benefit fully from technological innovations, including, but not limited to, communications, finance, insurance, real estate, business services, health, education, defense, aerospace, energy, homeland security and life sciences;

B. the expansion and improvement of Nassau County's sports, entertainment, film and tourism industries;

C. the construction, reconstruction, maintenance and operation of affordable or "workforce" housing;

D. the clean-up and reuse of "Brownfields" and other environmentally challenged sites;

E. the development, redevelopment, betterment and more complete use of existing "downtown", underdeveloped and highly distressed areas;

F. the development or redevelopment of the Hub Strategic Area (as such capitalized term is used in Resolution No. 2011-13 adopted by the members of the Agency on June 22, 2011);

G. the development or redevelopment of the Bethpage Strategic Area (as such capitalized term is used in Resolution No. 2011-14 adopted by the members of the Agency on June 22, 2011).

This policy is not intended to exclude any qualified "projects" under the Act, but is intended to enumerate those projects that may receive special consideration by the Agency.

EXHIBIT B

STANDARD FORM PILOT AGREEMENT

See Attached

EXHIBIT B

PAYMENT IN LIEU OF TAXES AGREEMENT

THIS PAYMENT IN LIEU OF TAXES AGREEMENT (this "Agreement"), made as of _____ 1, 2011, by and between [_____] , a limited liability company organized and existing under the laws of the State of New York, having an address at [_____] (the "Company"), and the NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having an office at 1550 Franklin Avenue, Suite 235, Mineola, NY 11501 (the "Agency"). Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Lease Agreement (as hereinafter defined).

W I T N E S S E T H

WHEREAS, the Agency is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act"), and Chapter 674 of the 1975 Laws of New York, as amended, constituting Section 922 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, industrial and commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more "projects" (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, the Agency on behalf of the Company intends to undertake a project (the "Project") consisting of the following: (A)(1) the acquisition of an interest in certain parcels of land located at _____ (collectively, the "Land"), which Land is more particularly described on Schedule A hereto, (2) the renovation and improvement of the existing buildings on the Land, together with related improvements to the Land (collectively, the "Building"), and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the "Equipment"), all of the foregoing for use as an automobile sales/service facility (collectively, the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes, mortgage recording taxes and real property taxes; and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Company or such other entity as may be designated by the Company and agreed upon by the Agency and the sublease thereof to one or more subtenants designated by the Company and agreed upon by the Agency; and

WHEREAS, the Agency is or will be the holder of a leasehold interest in the Land and the Building (collectively, the "Facility"); and

WHEREAS, the Agency proposes to undertake the Project as an authorized project under the Act and to sublease its interest therein to the Company pursuant to a Sublease Agreement dated as of the date hereof between the Agency and the Company (as amended, modified, supplemented or restated from time to time, the "Lease Agreement"); and

WHEREAS, the payment and performance of the Company's obligations under this Agreement shall be secured by a Mortgage and Assignment of Leases and Rents dated as of the date hereof (as amended, modified, supplemented or restated from time to time, the "PILOT Mortgage") from the Company and the Agency, as mortgagor, to the County of Nassau (the "PILOT Mortgagee"), its successors and assigns, as mortgagee, pursuant to which the Agency and the Company grant a first mortgage lien on the Facility to the PILOT Mortgagee; and

WHEREAS, under the present provisions of the Act and under the present Section 412-a of the Real Property Tax Law of the State of New York (the "RPTL"), the Agency is required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or supervision or under its control.

NOW, THEREFORE, in consideration of the premises and the payments, agreements, and covenants hereinafter contained, the Company and the Agency covenant and mutually agree as follows:

Section 1. Tax-Exempt Status of Facility.

A. Application. (1) The Company shall complete, and the Agency shall file, an application for tax exemption pursuant to Section 412-a of the RPTL (the "Application"). The Application shall be filed with the assessor for each of the various taxing entities having jurisdiction over the Facility, including, without limitation, the County of Nassau (the "County") and each town, village and school district within which the Facility is located (such taxing entities, and any successors thereto, being hereinafter collectively referred to as the "Taxing Entities" and each individually as a "Taxing Entity"). The Facility shall not be entitled to exempt status on the tax rolls of any Taxing Entity until the beginning of the first fiscal tax year of such Taxing Entity following the first taxable status date of such Taxing Entity occurring subsequent to the last to occur of (i) the Agency becoming the holder of a leasehold interest in the Facility, (ii) the filing by the Agency of the appropriate Application for tax exemption, and (iii) the acceptance of such Application by the appropriate tax assessor(s) (such date, the "PILOT Commencement Date"). [For purposes of this Section, the Agency has deemed the "Scheduled Completion Date" of the Project to be the Closing Date.]

(2) The Company hereby waives any claim or cause of action against the Agency, and releases the Agency from any liability to the Company, arising from any denial of an exemption from real property taxes and assessments, except to the extent that such denial results solely from the willful failure of the Agency, after demand by the Company, to file the completed Application for tax exemption as set forth in this Agreement.

B. Special Assessments. The parties hereto understand that the tax exemption extended to the Agency by Section 874 of the General Municipal Law of the State of New York and Section 412-a of the RPTL may not entitle the Agency to exemption from special assessments and special ad valorem levies. Pursuant to the Lease Agreement, the Company will be required to pay all special assessments and special ad valorem levies levied and/or assessed against or with respect to the Facility, subject to Section 2(B)(3) hereof.

C. Other Charges. If any taxes, assessments, service charges or other governmental charges become payable by the Company or the Agency on the Facility or the rental paid pursuant to the Lease Agreement or the occupancy of or any interest of the Company or the Agency in the Facility or any part thereof or any personal property used in connection with the business conducted and located therein, the amount of any such taxes, assessments or charges shall be paid by the Company as and when due. Furthermore, water charges, sewer rentals, sewage treatment charges, solid waste charges and any other charges in the nature of utility charges shall be paid as and when due directly by the Company and shall not be credited against nor be affected in any manner by any payment in lieu of real property taxes and assessments in any year and shall be computed pursuant to the formula adopted by the relevant Taxing Entity.

Section 2. Payments.

A. Tax Payments. Prior to the PILOT Commencement Date, the applicable real property taxes and assessments levied and/or assessed against or with respect to the Facility shall be payable in full by the Company to the applicable Taxing Entity as if the Agency were not the holder of a leasehold interest in the Facility or otherwise involved in the Project.

B. PILOT Payments. (1) From the PILOT Commencement Date through and including the last day of the tenth (10th) fiscal tax year thereafter (such date, the "Abatement Expiration Date"), the Company shall make payments in lieu of real property taxes and assessments levied and/or assessed by the Taxing Entities against the Facility (collectively, the "PILOT Payments") as follows, subject to the provisions of Section 2(B)(3) hereof:

- | | | |
|---|--|----|
| 1 | for the fiscal tax year commencing on the PILOT Commencement Date | \$ |
| 2 | for the fiscal tax year commencing on the 1st anniversary of the PILOT Commencement Date | \$ |
| 3 | for the fiscal tax year commencing on the 2nd anniversary of the PILOT Commencement Date | |
| 4 | for the fiscal tax year commencing on the 3rd anniversary of the PILOT Commencement Date | |
| 5 | for the fiscal tax year commencing on the 4th anniversary of the PILOT Commencement Date | |
| 6 | for the fiscal tax year commencing on the 5th anniversary of the PILOT Commencement Date | |
| 7 | for the fiscal tax year commencing on the 6th anniversary of the PILOT Commencement Date | |
| 8 | for the fiscal tax year commencing on the 7th anniversary of the | |

- PILOT Commencement Date
- 9 for the fiscal tax year commencing on the 8th anniversary of the
PILOT Commencement Date
- 10 for the fiscal tax year commencing on the 9th anniversary of the
PILOT Commencement Date

(2) From and after the Abatement Expiration Date, and until the Agency's interest in and to the Facility is conveyed to the Company pursuant to the terms of the Lease Agreement and the Facility has been returned to the tax rolls as fully taxable property, the Company shall make PILOT Payments (defined in Section 2 hereof) equal to one hundred percent (100%) of the amount of real property taxes and assessments that would have been levied and/or assessed against or with respect to the Facility as if the Facility were owned by the Company and the Agency were not otherwise involved in the Project.

"PILOT Obligations" shall mean all amounts required to be paid by the Company under this Agreement, including, without limitation, those amounts set forth in Sections 2.A and 2.B hereof.

(3) Any provision of this Agreement to the contrary notwithstanding, the amount of PILOT Payments set forth in Section 2(B)(1) hereof for each fiscal tax year from the PILOT Commencement Date through the Abatement Expiration Date, shall be reduced (but not below \$0) by the amount, if any, of special assessments and special ad valorem levies assessed against or levied upon the Facility for such fiscal tax year (collectively, "Special Assessments"), whether by the Nassau County Tax Assessor's Office or otherwise, which Special Assessments would otherwise be payable by the Company pursuant to this Agreement. The amount of any such reduction of a PILOT Payment shall be set forth on the applicable PILOT bill issued with respect to such fiscal tax year, if any, but the failure of the Company to receive such bill shall in no event affect the Company's obligation to pay such PILOT Payment. In the event that (i) the amount of Special Assessments for a particular fiscal tax year exceeds the amount of the PILOT Payment for such fiscal tax year (such excess is hereinafter referred to as an "SA Credit"), or (ii) the amount of PILOT Payments for a particular fiscal tax year are not reduced by the amount of Special Assessments for such fiscal tax year (the amount of such Special Assessments is hereinafter referred to as an "SA Reduction"), then the amount of such SA Credit or SA Reduction, as the case may be, shall be carried over as a credit for the following fiscal tax year(s); provided, however, that if there is an unused SA Credit at the end of the term of the PILOT Payments hereunder, then the Company shall not be entitled to (a) take such SA Credit against any further payments hereunder or against real property taxes assessed against the Facility, or (b) an extension of the term of this Agreement.

C. Payments. (1) Amounts due and payable under this Agreement shall be payable to the Treasurer of the County of Nassau (the "Treasurer"), 240 Old Country Road, 3rd floor, Mineola, NY 11501, or at such other address as the Treasurer may notify the Company of in writing.

(2) All PILOT Payments hereunder shall be allocated among the affected tax jurisdictions in proportion to the amount of real property and other taxes and

assessments that would have been received by each Taxing Entity had the Project not been tax exempt due to the status of the Agency.

D. Due Dates; Interest; and Penalties. (1) The Company may be billed for PILOT Payments as if the Facility were on the tax rolls at the time when taxes for each Taxing Entity are due.

(2) If any payment required under this Agreement is not made on or before the due date thereof, such payment shall be delinquent and the Company shall pay a late charge equal to the greater of (a) five (5%) percent of the payment, and for each month, or part thereof, that the payment is delinquent beyond the first month, the Company shall pay an additional late charge equal to one (1%) percent per month of the total amount payable; and (b) the late charge applicable from time to time to real property tax levies and assessments that are not paid when due.

(3) Anything contained in this subparagraph to the contrary notwithstanding, the Company shall have the obligation to make all payments of PILOT Obligations (other than payments of penalties, if any) in two equal semi-annual installments on or prior to the date which is five (5) Business Days prior to January 1 and July 1 for the General Tax portion of the PILOT Obligations and April 1 and October 1 for the School Tax portion of the PILOT Obligations, as applicable, of each year of the term of the Lease Agreement or on such other due dates as may be established by the Agency or the Treasurer from time to time during the term of the Lease Agreement.

E. Partial Sale; Transferee's Obligation; Apportionment of Reduction to Local Taxing Entities. During the term of this Agreement, in the event that the Facility, or any portion thereof or interest therein, is sold, transferred, assigned or otherwise disposed of by the Agency, the transferees thereof will thereafter pay the real property taxes and assessments on such Land and the Building and any Additional Facilities (as hereinafter defined) located on the Land, or on such portion of the Land, that was sold, transferred, assigned or otherwise disposed of, as may be required by applicable law.

F. Sale; Company's Obligation. In the event that the Agency sells, transfers, assigns or otherwise disposes of its interest in the Facility to any party other than the Company, the Company's obligation for PILOT Obligations shall be prorated to the date of the closing of the transaction and thereupon all obligations of the Company for payment of PILOT Obligations shall cease, but the Agency shall take such steps with the transferee or assignee other than the Company to assure that each of the Taxing Entities shall suffer no loss of revenue until the Facility can be placed back on the tax rolls as fully taxable real property and taxes levied and billed therefor.

Section 3. Effective Date: Duration of Agreement. This Agreement shall become effective upon the execution and delivery of the Lease Agreement by the Company and the Agency and this Agreement by the Company and the Agency and the execution and delivery of the Company Lease from the Company to the Agency and shall continue in effect until the earlier of (i) the termination of this Agreement pursuant to the terms of the Lease Agreement or of this Agreement, or (ii) the date on which the Company Lease and the Lease Agreement are

terminated pursuant to the Lease Agreement or this Agreement and the Facility has been placed back on the tax rolls as taxable property.

Section 4. Events of Default. The following shall constitute an "Event of Default" under this Agreement:

A. Failure by the Company to make any payment specified herein and the continuance of such failure for a period of fifteen (15) days after receipt by the Company of written notice from the Agency and/or any Taxing Entity.

B. Failure by the Company to comply with or perform any provision of this Agreement other than the payment provisions hereof and the continuance of such failure for a period of thirty (30) days after receipt by the Company of written notice thereof from the Agency or, if such default is capable of being cured but cannot be cured within such thirty (30) day period, the failure of the Company to commence to cure such default within such thirty (30) day period and to prosecute such cure to completion, provided in no event shall such cure period exceed sixty (60) days.

C. An Event of Default under the Company Lease, the Lease Agreement or any other agreement between the Agency and the Company.

If the Company fails to make any payments pursuant to this Agreement when due, the amount or amounts so in default shall continue as an obligation of the Company until fully paid.

Upon the occurrence and during the continuance of an Event of Default hereunder, the Company shall be required to make PILOT Payments as if the Facility were owned by the Company and the Agency was not otherwise involved in the Project, such amounts to commence to be paid for the period subsequent to the date it is determined by the Agency that there is an Event of Default hereunder. In such event, the tax rate, interest and penalties shall be those then in effect in the Taxing Entities in which the Facility is located.

Upon the occurrence and continuance of an Event of Default hereunder, the Agency shall be entitled to sue to enforce any provision of this Agreement and to recover the payments of PILOT Obligations in default from the Company, together with all the costs and expenses of the Agency, its successors or assigns, paid or incurred in such recovery (including court costs and attorneys' fees and expenses) and interest at the rate charged by the respective Taxing Entities on overdue payments of taxes. In addition, the Agency shall have the right to terminate the Company Lease and the Lease Agreement at any time, and the Company shall accept such termination.

The Agency, in enforcing payment by the Company of the PILOT Obligations, may take whatever action and exercise any or all of the rights and remedies specified in this Agreement or any other remedy provided by law.

Each and every Event of Default shall give rise to a separate cause of action hereunder, and separate suits may be brought hereunder as each cause of action arises.

No delay or omission in exercising any right or power accruing upon the occurrence of any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. Further, no payment by the Agency or receipt by the Agency or a Taxing Entity of a lesser amount than the correct amount or manner of payment due hereunder shall be deemed to be other than a payment on account, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed to effect or evidence an accord and satisfaction, and the Agency and/or any Taxing Entity may accept any check or payment as made without prejudice to the right to recover the balance or pursue any other remedy in this Agreement or otherwise provided at law or in equity.

In no event shall the Agency be liable to any of the Taxing Entities for the payments specified herein, whether or not the Company makes such payments. The Company hereby agrees to indemnify, defend (with counsel selected by the Agency) and hold harmless the Agency and its officers, members, agents (other than the Company), attorneys, servants and employees, past, present and future, against any such liability for such payments and against all penalties, interest, and other charges resulting from the delinquency of such payments.

The Agency and the Company hereby acknowledge the right of the County, as beneficiary of this Agreement (on behalf of itself and all other Taxing Entities), to pursue any appropriate remedies, including an action or proceeding in the courts, to recover directly from the Company any payments of PILOT Obligations in default hereunder and/or to exercise its rights and remedies under the PILOT Mortgage. The Company shall promptly notify the Agency of any action or proceeding brought, or other measure taken, by a Taxing Entity to recover such payments in default hereunder. It is understood that the right of any Taxing Entity herein acknowledged is in addition to, and shall not impair, the Agency's own rights arising from a breach of this Agreement.

In the event that title to the Facility is conveyed by the Company to any other party prior to expiration of the term of the Lease Agreement, this Agreement shall become null and void and any remaining tax abatement hereunder shall be canceled.

Section 5. Additional Facilities. If any structural additions or change in use shall be made to the buildings or other improvements included in the Facility subsequent to the date hereof (other than the changes contemplated as part of the Project), or if any additional buildings or improvements shall be constructed on the Land (such change of use, structural additions, buildings and improvements being referred to hereinafter as "Additional Facilities"), the Company agrees to increase its PILOT Obligations hereunder in an amount, as determined by the Agency or a tax assessor selected by the Agency, equal to the increased tax payments, if any, that would have been payable on such increase if this Agreement were not in effect. Nothing herein shall constitute the Agency's consent to the construction of any such additions or additional buildings or improvements or to such change of use.

Section 6. Change of Law. In the event the Facility, or any part thereof, is declared to be subject to taxation for real property taxes or assessments by an amendment to the Act, other legislative change or a final judgment of a court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

Section 7. Waiver of Tax Exemption. The Company, in recognition of the benefits provided under this Agreement, and for so long as the Lease Agreement is in effect, hereby expressly waives any rights it may have for any exemption under Section 485-b of the RPTL or any other exemption under any other law or regulation (except, however, for the exemption provided under Article 18-A of the General Municipal Law) with respect to the Facility.

The Company, in recognition of the benefits provided under this Agreement and the Lease Agreement, hereby expressly waives the right to institute judicial or other review of an assessment of the real property with respect to the Facility, whether pursuant to the provisions of Article 7 of the RPTL or other applicable law, as the same may be amended from time to time. In addition, the Company hereby represents and warrants that it has stipulated to the discontinuance (with prejudice) of all pending tax certiorari proceedings, if any, with respect to the Facility on or before the date hereof.

Section 8. Delivery of PILOT Statement. The Company shall deliver to the Comptroller of the County of Nassau, on or before the dates set forth for payment of the PILOT Obligations in Section 2 hereof, in each year during the term of the Lease Agreement, a verified statement setting forth the amount of such payments and the dates of such payments.

Section 9. Limited Obligation. The obligations, covenants and agreements of the Agency hereunder shall not constitute or give rise to an obligation of the State of New York, the County, the Town of North Hempstead or any school district within which the Facility is located and neither the State of New York, the County, the Town of North Hempstead nor any such school district shall be liable thereon, and further, such obligations, covenants and agreements shall not constitute or give rise to a general obligation of the Agency.

Section 10. No Waiver. Failure by the Agency in any instance to insist upon the strict performance of any one or more of the obligations of the Company under this Agreement, or to exercise any election herein contained, shall in no manner be or be deemed to be a waiver by the Agency of any of the Company's defaults or breaches hereunder or of any of the rights and remedies of the Agency by reason of such defaults or breaches, or a waiver or relinquishment of any and all of the Company's obligations hereunder. No waiver, amendment, release or modification of this Agreement shall be established by conduct, custom or course of dealing. Further, no payment by the Company or receipt by the Agency of a lesser amount than the correct amount or manner of payment due hereunder shall be deemed to be other than a payment on account, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed to effect or evidence an accord and satisfaction, and the Agency may accept any check or payments as made without prejudice to the right to recover the balance or pursue any other remedy in this Agreement or otherwise provided at law or in equity.

Section 11. Notices.

A. All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given on the earlier of (1) three (3) Business Days after being sent to the applicable address stated below by registered or certified

mail, return receipt requested, or by such other means as shall provide the sender with documentary evidence of such delivery, or (2) the date on which delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery.

B. The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

To the Agency:

Nassau County Industrial Development Agency
1550 Franklin Avenue, Suite 235
Mineola, NY 11501
Attention: Joseph J. Kearney, Executive Director

With a courtesy copy to:

Phillips Lytle LLP
1305 Franklin Avenue, 2nd floor
Garden City, NY 11530
Attention: Paul V. O'Brien, Esq.

To the Company:

With a courtesy copy to:

Section 12. Change of Address. The Agency or the Company may, by notice given hereunder to each other, designate any further or different addresses to which subsequent notices, certificates or other communications to them shall be sent.

Section 13. Assignment of Agreement. This Agreement shall be binding upon the successors and permitted assigns of the Company but no assignment shall be effective to relieve the Company of any of its obligations hereunder unless expressly authorized and approved in writing by the Agency.

Section 14. Independent Agreement. Notwithstanding any other provision of this Agreement, including the recitals hereof, the parties agree that the Lease Agreement executed between the parties thereto shall be a separate and independent document from this Agreement, and irrespective of whether any provision of this Agreement or the entirety hereof shall be held invalid or unenforceable by any court of competent jurisdiction, the Lease Agreement shall be construed, interpreted, and otherwise regarded separate and apart from this Agreement. The parties hereto specifically note that the considerations and terms provided for in

this Agreement and provided for in the Lease Agreement are the only considerations and terms for which the parties thereto have executed this Agreement.

Section 15. Invalidity. If any one or more phrases, sentences, clauses or provisions of this Agreement or the entirety hereof shall be declared invalid or unenforceable by any order, decree or judgment of any court of competent jurisdiction, then such phrase, sentence, clause or provision or the entirety of this Agreement shall be deemed to be reformed in such manner as shall be determined by such court, or in the absence of such a determination then in the reasonable judgment of the Agency, to render such phrase, sentence, clause or provision of this Agreement valid and enforceable under applicable law. The parties hereto agree to enter into such documents, agreements and instruments as the Agency reasonably determines are necessary to effect any such reformation. In the event that any one more of the phrases, sentences, clauses or provisions of this Agreement cannot be reformed to comply with applicable law, then this Agreement shall be construed as if such phrase, sentence, clause or paragraph had not appeared in this Agreement.

Section 16. Amendments. This Agreement may not be modified, amended, supplemented, or changed without the written consent of the Agency and the Company.

Section 17. Prior Agreements. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, whether written or oral, among the parties with respect to the subject matter hereof.

Section 18. Delivery of Agreement. The Agency covenants to use reasonable efforts to deliver to each Taxing Entity a copy of this Agreement within fifteen (15) days after its execution.

Section 19. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 20. Service of Process; Consent to Jurisdiction; Forum.

A. The Company represents that it is subject to service of process in the State of New York and covenants that it will remain so subject so long as the Lease Agreement shall be in effect. If for any reason the Company should cease to be so subject to service of process in the State of New York, the Company hereby designates and appoints, without power of revocation, [____], as agent for service of process, and if such agent shall cease to act or otherwise cease to be subject to service of process in the State of New York, the Secretary of State of the State of New York, as the agents of the Company upon whom may be served all process, pleadings, notices or other papers which may be served upon the Company as a result of any of its obligations under this Agreement; provided, however, that the serving of such process, pleadings, notices or other papers shall not constitute a condition to the Company's obligations hereunder.

B. The Company irrevocably and unconditionally (1) agrees that any suit, action or other legal proceeding arising out of this Agreement or the other Transaction Documents may be brought in the courts of record of the State of New York in Nassau County or

the courts of the United States, Eastern District of New York; (2) consents to the jurisdiction of each such court in any such suit, action or proceeding; and (3) waives any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts. For such time as the Lease Agreement is in effect, the Company's agents designated above shall accept and acknowledge in the Company's behalf service of any and all process in any such suit, action or proceeding brought in any such court. The Company agrees and consents that any such service of process upon such agents and written notice of such service to the Company in the manner set forth in Section 11 hereof shall be taken and held to be valid personal service upon the Company whether or not the Company shall then be doing, or at any time shall have done, business within the State of New York and that any such service of process shall be of the same force and validity as if service were made upon the Company according to the laws governing the validity and requirements of such service in the State of New York, and waives all claim of error by reason of any such service. Such agents shall not have any power or authority to enter into any appearance or to file any pleadings in connection with any suit, action or other legal proceedings against the Company or to conduct the defense of any such suit, action or any other legal proceeding except as expressly authorized by the Company.

Section 21. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, as the same may be in effect from time to time, without regard to principles of conflicts of laws.

Section 22. Nature of Obligations. This Agreement shall remain in full force and effect until each and every one of the PILOT Obligations shall have been irrevocably paid in full and all other obligations of the Company under this Agreement shall have been paid and performed in full.

If the Company consists of more than one (1) Person, the obligations of such Persons under this Agreement shall be joint and several.

Section 23. Indemnification. The Company agrees to indemnify, defend (with counsel selected by the Agency) and hold harmless the Agency and its officers, members, agents (other than the Company), attorneys, servants and employees, past, present and future, against any liability arising from any default by the Company in performing its obligations hereunder or any expense incurred hereunder, including, without limitation, any expenses of the Agency and attorneys' fees and expenses.

[Remainder of this page intentionally left blank]

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

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By _____

Name: Joseph J. Kearney

Title: Executive Director

[_____]

By _____

Name:

Title:

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

On the ____th day of February, in the year 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Joseph J. Kearney, 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 executed the instrument.

Notary Public

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

On the ____th day of February, in the year 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, 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 executed the instrument.

Notary Public

SCHEDULE A

DESCRIPTION OF THE LAND

SCHEDULE A
PILOT SCHEDULE FOR NEW CONSTRUCTION

SCHEDULE A: NEW CONSTRUCTION PROJECT				
Period	Begin	End	Assessed Value of Improvement ("AV")	
1	Commencement Date	1 day prior to Effective Date	N/A	
2	Effective Date	1 yr Anniversary of Effective Date	.00 * AV	SUM
3	1 yr Anniversary of Effective Date	2 yr Anniversary of Effective Date	.10 * AV	
4	2 yr Anniversary of Effective Date	3 yr Anniversary of Effective Date	.20 * AV	
5	3 yr Anniversary of Effective Date	4 yr Anniversary of Effective Date	.30 * AV	
6	4 yr Anniversary of Effective Date	5 yr Anniversary of Effective Date	.40 * AV	
7	5 yr Anniversary of Effective Date	6 yr Anniversary of Effective Date	.50 * AV	
8	6 yr Anniversary of Effective Date	7 yr Anniversary of Effective Date	.60 * AV	
9	7 yr Anniversary of Effective Date	8 yr Anniversary of Effective Date	.70 * AV	
10	8 yr Anniversary of Effective Date	9 yr Anniversary of Effective Date	.80 * AV	
11	9 yr Anniversary of Effective Date	10 yr Anniversary of Effective Date	.90 * AV	
Period	LAND PILOT	IMPROVEMENT PILOT	TOTAL PILOT	
1	100 % of taxes as of year of Closing	100 % of taxes as of year of Closing	LAND PILOT + IMPROVEMENT PILOT	
2	100% of taxes as of year of Closing	AV* PILOT RATE	LAND PILOT + IMPROVEMENT PILOT	
3	100% of taxes as of year of Closing	AV* PILOT RATE	LAND PILOT + IMPROVEMENT PILOT	
4	100% of taxes as of year of Closing	AV* PILOT RATE	LAND PILOT + IMPROVEMENT PILOT	
5	100% of taxes as of year of Closing	AV* PILOT RATE	LAND PILOT + IMPROVEMENT PILOT	
6	100% of taxes as of year of Closing	AV* PILOT RATE	LAND PILOT + IMPROVEMENT PILOT	
7	100% of taxes as of year of Closing	AV* PILOT RATE	LAND PILOT + IMPROVEMENT PILOT	
8	100% of taxes as of year of Closing	AV* PILOT RATE	LAND PILOT + IMPROVEMENT PILOT	
9	100% of taxes as of year of Closing	AV* PILOT RATE	LAND PILOT + IMPROVEMENT PILOT	
10	100% of taxes as of year of Closing	AV* PILOT RATE	LAND PILOT + IMPROVEMENT PILOT	
11	100% of taxes as of year of Closing	AV* PILOT RATE	LAND PILOT + IMPROVEMENT PILOT	

SCHEDULE B: IMPROVEMENT PROJECT				
Period	Begin	End	Assessed Value of Improvement ("AV")	
1	Commencement Date	1 day prior to Effective Date	N/A	
2	Effective Date	1 yr Anniversary of Effective Date	.00 * AV	SUM OF
3	1 yr Anniversary of Effective Date	2 yr Anniversary of Effective Date	.10 * AV	
4	2 yr Anniversary of Effective Date	3 yr Anniversary of Effective Date	.20 * AV	
5	3 yr Anniversary of Effective Date	4 yr Anniversary of Effective Date	.30 * AV	
6	4 yr Anniversary of Effective Date	5 yr Anniversary of Effective Date	.40 * AV	
7	5 yr Anniversary of Effective Date	6 yr Anniversary of Effective Date	.50 * AV	
8	6 yr Anniversary of Effective Date	7 yr Anniversary of Effective Date	.60 * AV	
9	7 yr Anniversary of Effective Date	8 yr Anniversary of Effective Date	.70 * AV	
10	8 yr Anniversary of Effective Date	9 yr Anniversary of Effective Date	.80 * AV	
11	9 yr Anniversary of Effective Date	10 yr Anniversary of Effective Date	.90 * AV	
Period	BASE PILOT	IMPROVEMENT PILOT	TOTAL PILOT	
1	100 % of taxes as of year of Closing	100 % of taxes as of year of Closing	BASE PILOT + IMPROVEMENT PILOT	
2	100% of taxes as of year of Closing	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
3	100% of taxes as of year of Closing	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
4	100% of taxes as of year of Closing	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
5	100% of taxes as of year of Closing	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
6	100% of taxes as of year of Closing	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
7	100% of taxes as of year of Closing	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
8	100% of taxes as of year of Closing	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
9	100% of taxes as of year of Closing	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
10	100% of taxes as of year of Closing	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
11	100% of taxes as of year of Closing	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	

Nassau County Industrial Development Agency
Disaster Preparedness Addendum to Uniform Tax Exemption Policy

Adopted January 31, 2013

As a result of the storm commonly known as “Hurricane Sandy” that struck Nassau County and other parts of the State of New York on October 29-30, 2012, significant portions of Nassau County were without electrical power for as long as two (2) weeks or more. During this period, many retail gas stations in Nassau County were without electricity and therefore unable to pump gasoline, diesel and other automotive fuel products, even though many of these stations had such fuel products in their underground storage tanks. The resultant hardships for the residents and businesses of Nassau County as well as the drag on the economy of Nassau County are well documented and have been widely publicized.

The Nassau County Industrial Development Agency (“the Agency”) desires to mitigate the effects of similar mass power outages in the future and, therefore, desires to adopt this Disaster Preparedness Addendum to its Uniform Tax Exemption Policy (this “Addendum”). The purposes of the Agency include the promotion of economic development, the prevention of economic deterioration and the advancement of employment opportunities to improve the general prosperity and economic welfare of the people of Nassau County and the members of the Agency find that the special “financial assistance” (as such quoted term is defined in Article 18-A of the General Municipal Law, as amended) contemplated by this Addendum (the “Special Financial Assistance”) will further the Agency’s purposes.

The granting of the Special Financial Assistance is governed by Article 18-A of the General Municipal Law, as amended (the “Act”) and by applicable Federal and State common and statutory laws (collectively, the “Applicable Laws”).

As required by the Act, this Addendum provides a uniform policy for the granting by the Agency only of exemptions from sales and use taxes and real property taxes with respect to Disaster Recovery Equipment and Vital Infrastructure Facilities (as such terms are hereinafter defined). Except as expressly modified herein, the Agency’s Uniform

Tax Exemption Policy re-adopted on June 22, 2011 (the “UTEP”) remains in full force and effect, and any reference to the UTEP shall mean the UTEP as amended by this Addendum.

1. GENERAL PROCEDURE

a. The Applicable Laws, the Agency’s policies and procedures and the UTEP determine those “projects” (as such quoted term is defined in Article 18-A of the General Municipal Law, as amended) that are eligible to receive Special Financial Assistance (collectively, “Special Projects”).

b. A company that desires to receive Special Financial Assistance (an “Applicant”) must present its proposal to the Agency in accordance with procedures adopted by the Agency, as same may be amended from time to time, including, without limitation, by submitting an Application for Special Financial Assistance in a form acceptable to and prescribed by the Agency from time to time.

c. In conformity with its policies and procedures, and in compliance with Applicable Laws, the Agency may, in its discretion, approve a proposed Special Project by adopting an Inducement Resolution and thereafter proceed to Closing on such Special Project. For purposes of this Addendum, the term “Closing” means the date the Agency acquires ownership or other interest in, or jurisdiction, supervision or control over a Special Project.

d. At Closing, the Applicant will be required to execute documents that will (i) convey ownership or other interest in, or jurisdiction, supervision or control over the Vital Infrastructure Facility to the Agency and (ii) govern the terms and conditions pursuant to which the Agency shall grant Special Financial Assistance to the Applicant (such documents are referred to as the “Project Documents”).

e. For purposes of this Addendum, the term “Disaster Recovery Equipment” shall mean back-up generators and other alternative power supply systems, together with the wiring, conduits, switches and other installations necessary or appropriate to maintain a safe and commercially reasonable level of power supply to a Vital Infrastructure Facility in the event of a loss or other inability to receive regular electrical power from the public supplier thereof. For purposes of this Addendum, the term “Vital Infrastructure Facility”

shall mean any commercial retail establishment whose primary purpose is the sale of gasoline, diesel fuel, ethanol and/or biofuel to the public.

2. SALES AND USE TAX EXEMPTION

a. Disaster Recovery Equipment that is purchased or leased in connection with a qualified Special Project shall be exempt from local and state sales and use taxes for the period commencing with the Closing and ending on the date (as such date may be extended in the sole discretion of the Agency) that the Project Documents require completion to occur in respect of the undertaking of the Special Project.

b. Operating and maintenance expenses of Special Projects are not incurred as agent of the Agency , and no sales tax exemption is provided for operating and maintenance expenses.

c. The Agency shall issue a letter that sets forth the parameters of the sales and use tax exemption (the “Special Tax Letter”), which Special Tax Letters shall be subject to all Applicable Laws and the provisions of the UTEP that govern the granting of an exemption from sales and use taxes.

3. MORTGAGE RECORDING TAX EXEMPTION

a. The Agency is not authorizing the granting of an exemption from mortgage recording tax with respect to Special Projects under this Addendum.

4. ABATEMENT OF REAL PROPERTY TAXES

a. Each Special Project receiving abatement from real property taxes will be required to execute and deliver a Payment in Lieu of Tax Agreement in a form acceptable to and prescribed by the Agency (the “Special PILOT Agreement”), which Special PILOT Agreement shall be subject to all Applicable Laws and the provisions of the UTEP that govern the granting of an exemption from real property taxes.

b. An Applicant that proposes to purchase and install Disaster Recovery Equipment for a Vital Infrastructure Facility shall be eligible (subject to the other provisions hereof) for a PILOT as follows:

i. the cost of the acquisition and installation of Disaster Recovery Equipment (including all filing fees and other attendant costs), as determined by the Agency in its sole discretion, shall be the "Total PILOT Credit".

ii. the amount of the taxes and assessments that would be levied upon the Vital Infrastructure Facility by the respective Affected Taxing Jurisdictions without taking into consideration the transfer of ownership, jurisdiction, supervision or control of the Special Project to the Agency (the "Otherwise Applicable Taxes") shall be reduced (but not below \$0 in each year), for each of ten (10) consecutive years, by one-tenth (1/10th) of the Total PILOT Credit (the "Annual PILOT Credit").

c. Notwithstanding any provision of this Addendum to the contrary, the real property tax exemption for a Special Project shall not take effect until all of the following occur: (1) the first tax status date for an Affected Taxing Jurisdiction occurs subsequent to filing of the Exemption Form; (2) the real property is noted as "Exempt" on the assessment roll for such Affected Taxing Jurisdiction; (3) such assessment roll becomes the basis for the preparation of a tax roll for the Affected Taxing Jurisdiction and (4) the tax year related to such tax roll commences.

d. The Annual PILOT Credit shall be credited against Otherwise Applicable Taxes in the same proportion that PILOT Payments are allocated to the Affected Taxing Jurisdictions pursuant to Section 874 of the Act.

5. DEVIATION FROM PILOT

a. The Agency shall have the right, but not the obligation, to deviate from the PILOT schedules set forth in Section 4 of this Addendum in terms of duration, amounts and phase-in of such PILOT.

b. Such deviation may be considered by the Agency upon request of the Applicant or upon its own motion.

c. Any such deviation will be made only with the specific approval of the Agency's members after giving consideration to the factors set forth in the UTEP and in Section 874(a) of the Act and such other factors which, in the opinion of the members of the Agency, justify such deviation.

d. Prior to granting any such deviation, the Agency shall notify the Affected Taxing Jurisdictions of the proposed deviation and the reasons therefore, as required by the Act.

6. EFFECTIVE DATES

- a. This Addendum shall be effective as of January 31, 2013 and shall apply to all Special Projects which the Agency approves after January 31, 2013; provided, however, that the Agency may also approve a request for an exemption from real property taxes with respect to a Special Project in which an Applicant acquired Disaster Recovery Equipment on or after November 1, 2012.

7. AMENDMENTS

- a. The Agency, by resolution of its members, may amend or modify this Addendum as it may, from time to time, in its sole discretion determine.

8. RELATIONSHIP WITH PROJECT DOCUMENTS

- a. This Addendum is intended to be a guide to the granting of Financial Assistance by the Agency.
- b. In the event that there is an inconsistency between this Addendum and any Project Document, the terms and conditions of the Project Document shall prevail.

9. SEVERABILITY

If any portion of this Addendum is found by a Court of competent jurisdiction to be illegal, invalid or unenforceable, the remainder of the Addendum shall not be affected and, in lieu of any provision that is found to be illegal, invalid or unenforceable, a provision that is as similar to the illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable will be submitted to the members of the Agency for consideration and adoption.