

ENGEL BURMAN AT THE BEACH LLC - PILOT Deviation Resolution

A regular meeting of the Nassau County Industrial Development Agency (the “Agency”) was convened in public session, electronically, pursuant to Executive Order No. 202.11, 202.28, 202.48 and 202.55 - Continuing Temporary Suspension And Modification Of Laws Relating To The Disaster Emergency - by Governor Andrew M. Cuomo of the State of New York on August 25, 2020 at 6:45 p.m., local time.

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

PRESENT:

Richard Kessel	Chairman
Lewis M. Warren	Vice Chairman
Anthony Simon	2nd Vice Chairman
Amy Flores	Treasurer
John Coumatos	Asst. Treasurer
Chris Fusco	Asst. Secretary
Timothy Williams	Secretary

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Harry Coghlan	Chief Executive Officer / Executive Director
Danielle Oglesby	Chief Operating Officer/ Deputy Executive Director
Anne LaMorte	Chief Financial Officer
Catherine Fee	Director of Business Development/Chief Marketing Officer
Colleen Pereira	Administrative Director
Carlene Wynter	Compliance Assistant
Nicole Gil	Administrative Assistant
Thomas D. Glascock, Esq.	General Counsel
Andrew D. Komaromi, Esq.	Bond/Transactional Counsel

The attached resolution no. 2020-65 was offered by John Coumatos, seconded by Lewis M. Warren.

RESOLUTION AUTHORIZING A DEVIATION FROM THE UNIFORM
TAX EXEMPTION POLICY OF THE NASSAU COUNTY
INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT
TO A PROJECT FOR ENGEL BURMAN AT THE BEACH LLC.

WHEREAS, the Nassau County Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 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, ENGEL BURMAN AT THE BEACH LLC, a limited liability company organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York on behalf of itself and entities formed or to be formed on its behalf (the “Applicant”), has presented an application for financial assistance (the “Application”) to the Agency, which Application requests that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 6.04 acre parcel of land located between Long Beach Boulevard, Shore Road and Riverside Boulevard, City of Long Beach, Town of Hempstead, Nassau County, New York (Section: 59; Block: 116; Lot: 38) (the “Land”), (2) the construction of an approximately 620,000 square foot mixed-use building, transit oriented development (collectively, the “Building”) on the Land, together with related improvements to the Land, including, but not limited to, a parking garage, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the “Equipment”) necessary for the completion thereof (collectively, the “Project Facility”), all of the foregoing for use by the Applicant as residential facility consisting of approximately two-hundred (200) residential condominium housing units, two-hundred-thirty-eight (238) residential rental housing units (30 of which units shall be affordable/workforce units) (the “Rental Portion”) and approximately 6,500 square feet of retail space, together with two (2) levels of structured parking; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes (but only with respect to the Rental Portion), mortgage recording taxes and/or sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the Application states that the Applicant is seeking an exemption from real property taxes with respect to the Project Facility that constitutes a deviation from the Agency's Uniform Tax Exemption Policy (the "Tax Exemption Policy"); and

WHEREAS, pursuant to Section 874(4) of the Act, (A) the Executive Director of the Agency caused a letter dated August 7, 2020 (the "Pilot Deviation Notice Letter") mailed to the chief executive officer of each affected tax jurisdiction, informing said individuals that the Agency would, at its meeting on August 25, 2020 (the "IDA Meeting"), consider a proposed deviation from the Tax Exemption Policy with respect to the payments in lieu of real property taxes to be made pursuant to a payment in lieu of taxes agreement to be entered into by the Agency with respect to the Project Facility; and (B) the members of the Agency conducted the IDA Meeting on the date hereof and reviewed any comments and correspondence received with respect to the proposed deviation from the Tax Exemption Policy; and

WHEREAS, the Agency desires to provide for compliance with the provisions of Section 874(4) of the Act with respect to the proposed deviation from the Tax Exemption Policy;

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

Section 1. Prior to making the determinations set forth in this resolution, the members of the Agency have considered the following factors set forth in the Tax Exemption Policy: (1) the extent to which the Proposed Project would create or retain permanent jobs; (2) the extent to which the Proposed Project would create construction jobs; (3) the estimated value of tax exemptions to be provided with respect to the Proposed Project; (4) the amount of private sector investment generated or likely to be generated by the Proposed Project; (5) the likelihood of the Proposed Project being accomplished in a timely manner; (6) the extent of new revenue that would be provided to affected tax jurisdictions as a result of the Proposed Project; (7) whether affected tax jurisdictions would be reimbursed by the Applicant if a Proposed Project does not fulfill the purposes for which an exemption was provided, (8) the impact of the Proposed Project on existing and proposed businesses and economic development projects in the vicinity, (9) the demonstrated public support for the Proposed Project, (10) the effect of the Proposed Project on the environment, (11) the extent to which the Proposed Project would require the provision of additional services, including, but not limited to, additional educational, transportation, police, emergency, medical or fire services, and (12) any other miscellaneous public benefits that might result from the Proposed Project.

Section 2. The Agency hereby determines that the Agency has fully complied with the requirements of Section 874(4) of the Act relating to the proposed deviation from the Tax Exemption Policy.

Section 3. Having reviewed all comments and correspondence received at or prior to the IDA Meeting, the Agency hereby approves the proposed deviation from the Tax Exemption Policy as described in the Pilot Deviation Notice Letter (a copy of which is attached hereto as Exhibit A) because the proposed deviation is necessary to induce the Applicant to undertake the Proposed Project and because the PILOT payments would not be lower than the real property taxes that should otherwise apply with respect to the Land and the existing improvements thereon as of the closing date of the transaction.

Section 4. The Chairman, the Vice Chairman, the Chief Executive Officer/Executive Director, Chief Operating Officer and the Administrative Director of the Agency are each hereby authorized and directed, acting individually or jointly, to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution. If the Agency hereafter adopts appropriate final approving resolutions with respect to the proposed straight-lease transaction with the Applicant (the “Transaction”), the Chairman, the Vice Chairman, the Chief Executive Officer/Executive Director, Chief Operating Officer and the Administrative Director of the Agency are each hereby authorized and directed, acting individually or jointly, to cause the Agency to (A) enter into a Payment in Lieu of Taxes Agreement with the Applicant, providing, among other things, that the Applicant shall make payments in lieu of taxes consistent with the formula set forth in the Pilot Deviation Notice Letter, and (B) file an application for real property tax exemption with the appropriate assessor(s) with respect to the Project Facility.

Section 5. This Resolution shall take effect immediately, but is subject to and conditioned upon the closing of the Transaction.

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

Richard Kessel	VOTING Aye
Lewis M. Warren	VOTING Aye
Anthony Simon	VOTING Aye
Timothy Williams	VOTING Aye
Chris Fusco	VOTING Aye
Amy Flores	VOTING Aye
John Coumatos	VOTING Aye

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK

) SS.:

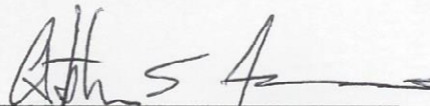
COUNTY OF NASSAU

We, the undersigned [Vice] Chairman and [Assistant] Secretary of the Nassau County Industrial Development Agency (the "Agency"), do hereby certify that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on August 25, 2020 with the original thereof on file in our office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 5 of the Public Officers Law (the "Open Meetings Law") as modified pursuant to Executive Order No. 202.11, 202.28, 202.48 and 202.55 - Continuing Temporary Suspension And Modification Of Laws Relating To The Disaster Emergency - by Governor Andrew M. Cuomo of the State of New York, said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

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

IN WITNESS WHEREOF, we have hereunto set our respective hands and affixed the seal of the Agency this 25th day of August, 2020.


[Assistant] Secretary

[Vice] Chairman

(SEAL)

STATE OF NEW YORK

) SS.:

COUNTY OF NASSAU

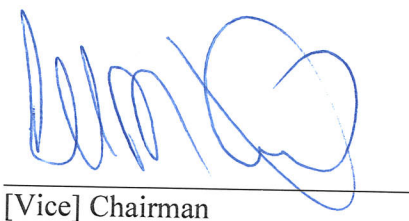
We, the undersigned [Vice] Chairman and [Assistant] Secretary of the Nassau County Industrial Development Agency (the "Agency"), do hereby certify that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on August 25, 2020 with the original thereof on file in our office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

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

IN WITNESS WHEREOF, we have hereunto set our respective hands and affixed the seal of the Agency this 25th day of August, 2020.

[Assistant] Secretary



[Vice] Chairman

(SEAL)

EXHIBIT A

PILOT DEVIATION NOTICE LETTER



NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY
1 WEST STREET
4TH FLOOR
MINEOLA, NY 11501
TELEPHONE (516) 571-1945 FAX (516) 571-1076
www.nassauida.org

August 7, 2020

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

County Executive Laura Curran
County of Nassau
1550 Franklin Avenue
Mineola, NY 11501

Supervisor Donald X. Clavin, Jr.
Town of Hempstead
1 Washington Street
Hempstead NY 11550

City Manager Donna M. Gayden
City of Long Beach
1 West Chester Street
Long Beach, NY 11561

City Council President John Bendo
City of Long Beach
1 West Chester Street
Long Beach, NY 11561

Superintendent Dr. Jennifer Gallagher
Long Beach School District
235 Lido Blvd.
Lido Beach NY 11561

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

Ladies and Gentlemen:

Due to wide-spread power outages in the City of Long Beach in the wake of Tropical Storm Isaias, the Agency cancelled its public hearings previously scheduled on this matter for August 6, 2020 and August 7, 2020 and as a result the Agency also cancelled its special meeting previously scheduled for August 20, 2020. We are providing notice to you in a separate correspondence dated of even date herewith regarding the new time and place for the re-scheduled public hearing.

Notice is hereby given that at a meeting of the Nassau County Industrial Development Agency (the "Agency") to be held on August 25, 2020 at 6:30 p.m. local time to be conducted electronically, as hereinafter described, the Agency will consider whether to approve the application of the Applicant (as defined below), for certain "financial assistance" which, if granted, would deviate from the Agency's Uniform Tax Exemption Policy (the "Policy") with respect to the payment of real property taxes. The meeting of the Agency will be open to the public.

In accordance with Section 859-a of the General Municipal Law, a representative of the Agency will present a copy of the Company's project Application, which is also available for viewing on the Agency's website at <https://nassauida.org/incentive-documents/>. However, given the ongoing COVID-19 public health crisis and related Executive Orders issued by Governor Andrew M. Cuomo, the Agency will not be able to accommodate any in-person public attendance or participation at this meeting. Nonetheless, and in furtherance of the provisions of Section 859-a of the General Municipal Law requiring interested parties be provided a reasonable opportunity, both orally and in writing, to present their views with respect to the Project, and pursuant to Governor Cuomo's Executive Order 202.15 issued on April 9, 2020, as extended by Executive Order 202.29 issued on May 8, 2020, Executive Order 202.39, issued on June 7, 2020, Executive Order 202.49 issued on July 6, 2020 and Executive Order 202.55 issued on August 5, 2020, suspending the Open Meetings Law and authorizing the conduct of public meetings through use of telephone conference, video conference and/or other similar service, the Agency will broadcast the meeting live on its Youtube channel at <https://www.youtube.com/channel/UCuERg-5BYx9VSdBVHUPTYJw/featured>. In addition, the Agency will provide public access to provide oral comments via Zoom. To register for the Zoom meeting, please visit the Nassau County Industrial Development Agency website at NassauIDA.org. After registering, you will receive a confirmation email containing information about joining the webinar.

Finally, the Agency also encourages all interested parties to submit written comments to the Agency, which will all be included within the public meeting record. Any written comments may be sent to Nassau County Industrial Development Agency, One West Street, 4th Floor, Mineola, New York 11501, Attn: Harry Coghlan, Chief Executive Officer/Executive Director and/or via email at info@nassauida.org.

At the meeting of the Agency, the Agency will consider the application of ENGEL BURMAN AT THE BEACH LLC, a limited liability company organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York on behalf of itself and entities formed or to be formed on its behalf (the "Applicant"), has presented an application for financial assistance (the "Application") to the Agency, which Application requests that the Agency consider undertaking a project (the "Project") consisting of the following: (A)(1) the acquisition of an interest in an approximately 6.04 acre parcel of land located between Long Beach Boulevard, Shore Road and Riverside Boulevard, City of Long Beach, Nassau County, New York (Section: 59; Block: 116; Lot: 38) (the "Land"), (2) the construction of an approximately 620,000 square foot mixed-use building, transit oriented development (collectively, the "Building") on the Land, together with related improvements to the Land, including, but not limited to, a parking garage, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the "Equipment") necessary for the completion thereof (collectively, the "Project Facility"), all of the foregoing for use by the Applicant as a residential

facility consisting of approximately two-hundred (200) residential condominium housing units, two-hundred-thirty-eight (238) residential rental housing units (30 of which units shall be affordable/workforce units) (the “Rental Portion”) and approximately 6,500 square feet of retail space, together with two (2) levels of structured parking; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes (but only with respect to the Rental Portion), mortgage recording taxes and/or sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency.

The Application states that the Applicant is seeking an abatement of real property taxes with respect to the Rental Portion only of the Project Facility. However, based upon preliminary negotiations between representatives of the Applicant and the Agency, the parties contemplate that the Agency may agree to grant a real property tax exemption (the “Property Tax Exemption”) with respect to the Rental Portion only of the Project Facility as follows:

(i) for the period prior to the date of the closing of the Project transaction (the “Closing Date”) to and including the day prior to the Closing Date being the Effective Date, as defined below, payments shall be equal to one hundred percent (100%) of the real property taxes and assessments that would be levied annually upon the Project Facility without taking into consideration the transfer of ownership, jurisdiction, supervision or control of the Project Facility to the Agency; and

(ii) for the period commencing on the Effective Date and continuing for twenty-eight (28) full fiscal tax years thereafter, fixed payments equal to the sum of the BASE PILOT and the IMPROVEMENT PILOT (the “PILOT payment(s)”). The PILOT payments shall be reduced by any special taxes, assessments or levies that the Applicant is required to pay separately to the affected tax jurisdictions.

Thereafter, and through the end of the term of the lease or installment sale agreement with respect to the Project Facility, the payments would be equal to the real property taxes and assessments that would be payable as if the Project Facility were returned to the tax rolls as taxable property and subject to taxation at its then current, full assessed value, as the same may be reassessed from time to time, and subject to tax rate increases imposed by the affected tax jurisdictions.

For the purposes of the foregoing, the following terms shall have the following meanings:

(a) “BASE PILOT” shall be deemed to mean the amount of all real property taxes and assessments payable on the Land and the existing improvements thereon, which amount shall be increased by 1.81% per year (compounded) after the first (1st) fiscal tax year. Except as set forth in the immediately preceding sentence, the BASE PILOT shall not increase or decrease during the term of the PILOT Agreement. In calculating the Base PILOT, the Agency shall take into account

the most recent assessment data (i.e., assessed value and tax rates) available as of the Closing Date including any applicable approved tax certiorari stipulation or other settlement or arrangement with the applicable tax assessor(s).

(b) "IMPROVEMENT PILOT" shall be deemed to mean the product of the following amounts, as determined by the Agency: (i) the Assessed Value of the Improvement, (ii) the PILOT Rate (being the sum of tax rates as of the year of the Closing), and (iii) the number 0.01, as phased in and adjusted pursuant to the column entitled "PHASE IN EXEMPTION PERCENTAGE OVER

ASSESSED VALUE OF IMPROVEMENT" in Exhibit A attached hereto. The term "Assessed Value of the Improvement" shall be deemed to mean the product of (y) the fair market value of the Project Facility (less the market value used in the calculation of the BASE PILOT) for real property tax valuation purposes, computed as of the estimated date of completion, as determined by the Agency using a methodology reasonably selected by the Agency, and (z) the level of assessment used by the Nassau County Assessor as of the year in which the Closing Date occurs. The PILOT Rate shall be evidenced by School Tax Bills, General Tax Bills (equalized if necessary) based on the most recent assessment data available to the Agency as of the year in which the Closing Date occurs.

(c) "Effective Date" shall be deemed to mean for each affected tax jurisdiction the first day of the first fiscal tax year following the first taxable status date occurring subsequent to the last to occur of (i) the Agency acquiring an interest in the Project Facility, (ii) the filing by the Agency of the appropriate application for tax exemption with the Nassau County Tax Assessor, and (iii) the acceptance of such Application by such assessor.

The Property Tax Exemption, if approved by the Agency, would constitute a deviation from the Policy. The PILOT payments shall be allocated among the affected tax jurisdictions in proportion to the amount of real property taxes that would have been received by each affected tax jurisdiction had the Project Facility not been tax exempt due to the status of the Agency.

The reason for the deviation is that the Property Tax Exemption, if approved by the Agency, is necessary to induce the Applicant to undertake the Project and that the PILOT payments would not be lower than the real property taxes that should otherwise apply with respect to the Land and the existing improvements thereon as of the Closing Date.

The reason for the deviation is that the Property Tax Exemption, if approved by the Agency, is necessary to induce the Applicant to undertake the Project and that the Base Year PILOT Amount would not be lower than the real property taxes that should otherwise apply with respect to the Project Facility as of the closing date.

Sincerely,

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY



Harry Coghlan
Executive Director

EXHIBIT A*

<u>YEAR</u>	<u>BASE PILOT</u>	<u>PHASE IN EXEMPTION PERCENTAGE OVER ASSESSED VALUE OF IMPROVEMENT</u>	<u>IMPROVEMENT PILOT</u>	<u>TOTAL PILOT PAYMENT</u>
Construction	\$225,041	-		\$225,041
Construction	\$229,114	-		\$229,114
Construction	\$233,261	-		\$233,261
1	\$237,483	0.00%	\$0	\$237,483
2	\$241,782	0.00%	\$0	\$241,782
3	\$246,158	0.00%	\$0	\$246,158
4	\$250,613	0.00%	\$0	\$250,613
5	\$255,149	0.00%	\$0	\$255,149
6	\$259,768	0.00%	\$0	\$259,768
7	\$264,469	0.00%	\$0	\$264,469
8	\$269,256	0.00%	\$0	\$269,256
9	\$274,130	0.00%	\$0	\$274,130
10	\$279,092	0.00%	\$0	\$279,092
11	\$284,143	5.00%	\$129,834	\$413,978
12	\$289,286	10.00%	\$259,669	\$548,955
13	\$294,522	15.00%	\$389,503	\$684,025
14	\$299,853	20.00%	\$519,337	\$819,191
15	\$305,281	25.00%	\$649,172	\$954,452
16	\$310,806	30.00%	\$779,006	\$1,089,812
17	\$316,432	35.00%	\$908,840	\$1,225,272
18	\$322,159	40.00%	\$1,038,675	\$1,360,834
19	\$327,990	45.00%	\$1,168,509	\$1,496,499
20	\$333,927	50.00%	\$1,298,343	\$1,632,270
21	\$339,971	55.00%	\$1,428,178	\$1,768,149
22	\$346,124	60.00%	\$1,558,012	\$1,904,136
23	\$352,389	65.00%	\$1,687,846	\$2,040,236
24	\$358,767	70.00%	\$1,817,681	\$2,176,448
25	\$365,261	75.00%	\$1,947,515	\$2,312,776

* PILOT payment amounts are for illustration purposes only, assuming closing in the current fiscal tax year