

Lunar Module Park, 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, 202.55 and 202.60 - Continuing Temporary Suspension And Modification Of Laws Relating To The Disaster Emergency - by Governor Andrew M. Cuomo of the State of New York on September 17, 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
Amy Flores	Treasurer
John Coumatos	Asst. Treasurer
Chris Fusco	Asst. Secretary
Timothy Williams	Secretary

NOT PRESENT:

Anthony Simon	2nd Vice Chairman
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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. 2020-73 was offered by Richard Kessel, seconded by Chris Fusco.

RESOLUTION AUTHORIZING A DEVIATION FROM THE UNIFORM
TAX EXEMPTION POLICY OF THE NASSAU COUNTY
INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT
TO A PROJECT FOR LUNAR MODULE PARK, 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, 101 CHANNEL DR. LLC, a limited liability company organized and existing under the laws of the State of New York, and LUNAR MODULE PARK, LLC, a limited liability company organized and existing under the laws of the State of New York (collectively, the “Applicants”), have 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) acquisition of an interest in an approximately 13 acre parcel of land located at 101 Channel Drive, Port Washington, Village of Port Washington North, Town of North Hempstead, County of Nassau, New York (the “Land”), (2) the renovation of approximately 100,000 square foot and 60,000 square foot buildings on the Land (the “Building”), together with related improvements to the Land, and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the “Equipment” and together with the Land and the Building, collectively, the “Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes, mortgage recording taxes and real property taxes (but not including special assessments and ad valorem levies) (collectively, the “Financial Assistance”); (C) the lease (with an obligation to purchase) 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 (D) the sublease of the Project Facility to the Company or such other entity(ies) as maybe designated by the Company and agreed upon by the Agency; and

WHEREAS, the Application states that the Applicants 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 31, 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 September 17, 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 Applicants 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) and as enhanced as shown in Schedule A because the proposed deviation is necessary to induce the Applicants 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 Applicants 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 Applicants (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 Applicants 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 Absent
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.:

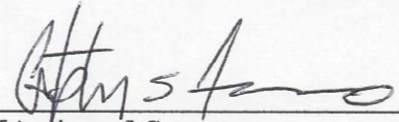
COUNTY OF NASSAU

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 September 17, 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, 202.55 and 202.60 - 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 17th day of September, 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 September 17, 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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IN WITNESS WHEREOF, we have hereunto set our respective hands and affixed the seal of the Agency this 17th day of September, 2020.

[Assistant] Secretary



[Vice] Chairman

(SEAL)

SCHDULE A- PILOT DEVIATION SCHEDULE

<u>Period</u>	<u>Begin</u>	<u>End</u>	<u>Assessed Value of Improvement ("AV")</u>	<u>PILOT RATE</u>
1	Closing Date	1 day prior to Effective Date ("ED")	N/A	N/A
2	Effective Date	1st-2nd Anniversary of ED	0.00 AV	SUM OF TAX RATES AS OF YEAR OF CLOSING ("RATE")
3	1 yr Anniversary of Effective Date	2nd-3rdth Anniversary of ED	0.07 AV	RATE
4	2 yr Anniversary of Effective Date	3rd-4th Anniversary of ED	0.13 AV	RATE
5	3 yr Anniversary of Effective Date	4th-5th Anniversary of ED	0.20 AV	Rate * 1.0181
6	4 yr Anniversary of Effective Date	5th-6th Anniversary of ED	0.27 AV	Rate * 1.0365
7	5 yr Anniversary of Effective Date	6th-7th Anniversary of ED	0.33 AV	Rate * 1.0553
8	6 yr Anniversary of Effective Date	7th-8th Anniversary of ED	0.40 AV	Rate * 1.0744
9	7 yr Anniversary of Effective Date	8th-9th Anniversary of ED	0.47 AV	Rate * 1.0938
10	8 yr Anniversary of Effective Date	9th-10th Anniversary of ED	0.53 AV	Rate * 1.1136
11	9 yr Anniversary of Effective Date	10th-11th Anniversary of ED	0.60 AV	Rate * 1.1338
12	10 yr Anniversary of Effective Date	11th-12th Anniversary of ED	0.67 AV	Rate * 1.1543
13	11 yr Anniversary of Effective Date	12th-13th Anniversary of ED	0.73 AV	Rate * 1.1752
14	12 yr Anniversary of Effective Date	13th-14th Anniversary of ED	0.80 AV	Rate * 1.1965
15	13 yr Anniversary of Effective Date	14th-15th Anniversary of ED	0.87 AV	Rate * 1.2181
16	14 yr Anniversary of Effective Date	15th-16th Anniversary of ED	0.93 AV	Rate * 1.2402
<u>Period</u>	<u>BASE PILOT</u>	<u>IMPROVEMENT PILOT</u>	<u>TOTAL PILOT</u>	
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 * 1.0181	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
4	100% of taxes as of year of Closing * 1.0365	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
5	100% of taxes as of year of Closing * 1.0553	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
6	100% of taxes as of year of Closing * 1.0744	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
7	100% of taxes as of year of Closing * 1.0938	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
8	100% of taxes as of year of Closing * 1.1136	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
9	100% of taxes as of year of Closing * 1.1338	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
10	100% of taxes as of year of Closing * 1.1543	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
11	100% of taxes as of year of Closing * 1.1752	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
12	100% of taxes as of year of Closing * 1.1965	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
13	100% of taxes as of year of Closing * 1.2181	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
14	100% of taxes as of year of Closing * 1.2402	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
15	100% of taxes as of year of Closing * 1.2626	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	
16	100% of taxes as of year of Closing	AV*PILOT RATE	BASE PILOT + IMPROVEMENT PILOT	

	* 1.2855			
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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 31, 2020

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

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

Supervisor Joseph S. Saladino
Town of Oyster Bay
54 Audrey Avenue
Oyster Bay NY 11771

Superintendent David Schneider
Bethpage School District
10 Cherry Avenue
Bethpage NY 11714

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

Ladies and Gentlemen:

Notice is hereby given that at a meeting of the Nassau County Industrial Development Agency (the "Agency") to be held on September 17, 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 hearing. 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, and Executive Order 202.55, issued on August 6, 2020, suspending the Open Meetings Law and authorizing the conduct of public hearings through use of telephone conference, video conference and/or other similar service, the Agency will broadcast the Public Hearing 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 by registering 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 hearing 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.

In 2007, LUNAR MODULE PARK, LLC (the "Applicant"), a limited liability company organized and existing under the laws of the State of New York, presented an application for financial assistance (the "Original Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Original Project") consisting, inter alia, of the following: (A) (1) acquisition of an interest in an approximately 29 acre parcel of land located at 500 Grumman Road West, Bethpage, Town of Oyster Bay, County of Nassau, New York (the "Land"), (2) the renovation of an approximately 660,000 square foot building on the Land (the "Building"), together with related improvements to the Land, and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the "Equipment" and together with the Land and the Building, but excluding the LIFT Unit, as such term is hereafter defined, collectively, the "Original Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential additional exemptions or partial exemptions from sales and use taxes, mortgage recording taxes and real property taxes (but not including special assessments and ad valorem levies) (collectively, the "Original Financial Assistance"); (C) the lease (with an obligation to purchase) 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 (D) the sublease of the Project Facility to the Applicant or such other entity(ies) as maybe designated by the Applicant and agreed upon by the Agency; and

The LIFT Unit, as such term is defined in that certain Project Conversion Agreement between the Applicant and the Agency, dated July 1, 2007 (the "Conversion Agreement"), comprising a portion of the Building and being a separate condominium unit, has been sold by the Applicant to Long Island Forum for Technology; and

In connection with the Original Project Facility the Agency entered into a straight-lease with the Applicant (as subsequently amended on July 1, 2007, April 7, 2008 and August 26, 2009) and granted the Original Financial Assistance.

In 2012, the Applicant presented and application additional "financial assistance" (within the meaning of Section 854(14) of the Act), including potential additional exemptions or partial exemptions from real property taxes and an exemption from sales and uses taxes (collectively, the "2012 Additional Financial Assistance") in connection with further improvements of the Project Facility to enhance the use and sustainability of the Project Facility as a film studio. The Application received the 2012 Additional Financial Assistance and entered into a further amendment of the straight-lease in connection therewith on December 1, 2012.

The Applicant presented an application for additional financial assistance (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Project") consisting, inter alia, of the following: (A) retention of an interest in the Land, (B) agency consent to allow portions of the Land and the Building (collectively, the "Project Facility") to continue to be utilized for (1) as studios and related facilities for film and video production (2) exhibition and event space when not utilized for film production operations, (3) license, on a month-to-month or 90 day termination basis, certain portions of the parking lot for temporary storage of auto dealer new vehicle inventory and (4) the tenancy of B&S Lighting and Furniture Inc. to occupy 40,000 square feet of the designated Non-Production Space in the Building for the storage of furniture/lighting inventory; (C) the granting of certain additional "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions or partial exemptions from mortgage recording taxes and real property taxes (but not including special assessments and ad valorem levies) (the "Financial Assistance"); and (D) the amendment of certain Transaction Documents (as defined in the Lease Agreement) in connection therewith.

In connection with the 2012 Financial Assistance, the Project Facility is subject to the Third Amended and Restated Payment in Lieu of Taxes Agreement, dated December 1, 2012 by and between the Agency and the Company ("Current PILOT"). The Application states that the Applicant is seeking an abatement of real property taxes and an extension of the term of the Current PILOT. However, based upon preliminary negotiations between representatives of the Applicant and the Agency, the parties contemplate that the Agency may agree to grant an additional approximately nine (9) year real property tax exemption ("Extension Period") commencing with the 2027 General tax Year and 2027/28 School tax year (the "Property Tax Exemption") with respect to the Project Facility as follows: payments in year 1 (2027 General tax Year and 2027/28 School tax year) of the Extension Period shall be equal to the amount of payments made in the final year of the Current PILOT (2026 General tax Year and 2026/27 School tax year) increased by 1.81 percent (the "Base Year PILOT Amount"), which Base Year PILOT Amount would be thereafter payable each fiscal tax year for a period of eight (8) fiscal tax years with annual increases of 1.81% per year (compounded) each fiscal tax year (i.e. Years 2-9 of the Extension Term (collectively the "PILOT Term")).

In calculating the Base Year PILOT Amount, the Agency shall take into account the most recent assessment data (i.e., assessed value and tax rates) available as of the closing as if the Project Facility was on the tax rolls as taxable property, including, without limitation, any applicable

approved tax certiorari stipulation or other settlement or arrangement with the applicable tax assessor(s) or the report of a tax consultant satisfactory to the Agency.

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

The Property Tax Exemption shall commence as of 2027 General tax Year and 2027/28 School tax year. The portion of each annual PILOT Payment shall be allocated among the affected tax jurisdictions in proportion to the amount of real property taxes that would have been received by each affected tax jurisdiction had the Project Facility not been tax exempt due to the status of the Agency.

The Property Tax Exemption, if approved by the Agency, would constitute a deviation from the Policy.

The reason for the deviation is that the Property Tax Exemption, if approved by the Agency, is necessary to induce the Applicant to undertake the Project and that the Base Year PILOT Amount would not be lower than the amount of payments made in the final year of the Current PILOT (2026 General tax Year and 2026/27 School tax year) with respect to the Project.

Sincerely,

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: 
Harry Coghlan
Chief Executive Officer