

**NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

APPLICATION FOR FINANCIAL ASSISTANCE
(Straight Lease)

APPLICATION OF:

TRCP ENTERPRISES, LTD

Please respond to all questions in this Application for Financial Assistance (the "Application") by, as appropriate:

- filling in blanks;
- checking the applicable term(s);
- attaching additional text (with notation in Application such as "see Schedule H, Item # 1", etc.); or
- writing "N.A.", signifying "not applicable".

All attachments responsive to questions found in this Application should be clearly labeled and attached as Schedule H to the Application. If an estimate is given, enter "EST" after the figure. One signed original and 9 copies of the Application (including all attachments) must be submitted.

The following amounts are payable to the Nassau County Industrial Development Agency (the "Agency") at the time this Application is submitted to the Agency: (i) a \$1,000 non-refundable application fee (the "Application Fee"); (ii) a \$3,500 expense deposit for the Agency's Transaction Counsel fees and expenses (the "Counsel Fee Deposit"), (iii) a \$2,500 expense deposit for the cost/benefit analysis with respect to the project contemplated by this Application (the "Cost/Benefit Deposit"), and (iv) a \$500 expense deposit for the real property tax valuation analysis, if applicable, with respect to the project contemplated by this Application (the "Valuation Deposit"). The Application Fee will not be credited against any other fees or expenses which are or become payable to the Agency in connection with this Application or the project contemplated herein (the "Project"). In the event that the subject transaction does not close for any reason, the Agency may use all or any part of the Counsel Fee Deposit, the Cost/Benefit Deposit and/or the Valuation Deposit to defray the cost of Transaction Counsel fees and expenses, the cost of obtaining a cost/benefit analysis and/or the cost of obtaining a real property tax valuation with respect to the Project. In the event that the subject transaction does close, the Counsel Fee Deposit, the Cost/Benefit Deposit and the Valuation Deposit shall be credited against the applicable expenses incurred by the Agency with respect to the Project.

Every signature page comprising part of this Application must be signed by the Applicant or this Application will not be considered complete or accepted for consideration by the Agency.

The Agency's acceptance of this Application for consideration does not constitute a commitment on the part of the Agency to undertake the proposed Project, to grant any Financial Assistance with respect to the proposed Project or to enter into any negotiations with respect to the proposed Project.

Information provided herein may be subject to disclosure under the New York Freedom of Information Law (New York Public Officers Law § 84 et seq.) ("FOIL"). If the Applicant believes that a portion of the material submitted with this Application is protected from disclosure under FOIL, the Applicant should mark the applicable section(s) or page(s) as "confidential" and state the applicable exception to disclosure under FOIL.

FEBRUARY 22, 2011

DATE

PART I. APPLICANT

A. APPLICANT FOR FINANCIAL ASSISTANCE (If more than one applicant, copy application and complete for each applicant):

Name: TRCP ENTERPRISES, LTD
Address: 2400 Northern Blvd., Greenvale, NY, 11548
Primary Contact: Robert Penn
Phone: 516-801-5701 Fax: 516-621-8611
E-Mail: rdptoyota@yahoo.com

NY State Dept. of Labor Reg #: N/A Federal Employer ID #:

NAICS Code #: 531120

B. BUSINESS TYPE (Check applicable status. Complete blanks as necessary):

Sole Proprietorship ___ General Partnership ___ Limited Partnership ___
Limited Liability Company ___ Privately Held Corporation X
Publicly Held Corporation ___ Exchange listed on _____
Not-for-Profit Corporation ___
Income taxed as: Subchapter S X Subchapter C ___
501(c)(3) Corporation ___ Partnership ___

State and Year of Incorporation/Organization: NY - 11/20/87

Qualified to do Business in New York: Yes X No ___ N/A ___

C. ANY ENTITY PROPOSED TO BE A USER OF THE PROJECT:

Name: PENN'S WORLDWIDE AUTO SUPERSTORE, LTD.
Relationship to Applicant: TENANT

D. APPLICANT COUNSEL (subject to Agency approval):

Firm name Jaspan Schlesinger LLP
Address: 300 Garden City Plaza
New York, New York 11530
Primary Contact: Lisa A. Cairo
Phone: (516) 393-8267
Fax: (516) 393-8282
E-Mail: lcario@jaspanllp.com

E. Principal stockholders, members or partners, if any (i.e., owners of 10% or more of equity/voting rights in Applicant):

Name	Percentage owned
Robert Penn	
Toni Penn	

F. If any of the persons described in the response to the preceding Question, or a group of said persons, owns more than a 50% interest in the Applicant, list all other entities which are related to the Applicant by virtue of such persons having more than a 50% interest in such entities:

PENN'S WORLDWIDE AUTO SUPERSTORE, LTD

BOBTO REALTY CORP

G. Is the Applicant related to any other entity by reason of more than 50% common ownership? If YES, indicate name of related entity and relationship:

YES X NO

Same as question F

H. List parent corporation, sister corporations and subsidiaries, if any:

N/A

I. Is the Applicant (including any parent company, subsidiary or related entity or person) or any principal(s) of the Applicant or its related entities involved in any litigation or aware of any threatened litigation that would have a material adverse effect on the Applicant's financial condition or the financial condition of said principal(s)? If YES, attach details.

YES NO X

J. Has the Applicant (or any parent company, subsidiary or related entity or person) or any principal(s) of the Applicant or its related entities, or any other business or concern with which such entities, persons or principal(s) have been connected, ever been involved, as debtor, in bankruptcy, creditors rights or receivership proceedings or sought protection from creditors? If YES, attach details.

YES NO X

K. Has the Applicant (or any parent company, subsidiary or related entity or person) or any principal(s) of the Applicant or its related entities, ever been charged with or convicted of any felony or misdemeanor (other than minor traffic offenses), or have any such related persons or principal(s) held positions or ownership interests in any firm or corporation charged or convicted of a felony or misdemeanor (other than minor traffic offenses)? If YES, attach details.

YES NO X

L. Has the Applicant (or any parent company, subsidiary or related entity or person) or any principal(s) of the Applicant or its related entities, or any other business or concern with which such entities, persons or principal(s) have been connected, been cited for (or is there pending proceeding or investigation with respect to) a violation of federal, state or local laws or regulations with respect to labor practices, hazardous wastes, environmental pollution, taxation, or other operating practices? If YES, attach details.

YES ___ NO X

- M. Is the Applicant (or any parent company, subsidiary or related entity or person) or any principal(s) of the Applicant or its related entities, or any other business or concern with which such entities, persons or principal(s) have been connected, delinquent or have any of the foregoing persons or entities been delinquent on any New York State, federal or local tax obligations within the past five (5) years? If YES, attach details.

YES ___ NO X

- N. Complete the following information for principals (including, in the case of corporations, officers and members of the board of directors and, in the case of limited liability company, members and managers) of the Applicant:

<u>Name</u>	<u>Title</u>	<u>Other Business Affiliations</u>
<u>Robert Penn</u>	<u>President of</u> <u>TRCP Enterprises Ltd.</u>	<u>Bobto Realty Corp. and Penn's</u> <u>Worldwide Auto Superstore Ltd.</u>
<u>Toni Penn</u>	<u>Treasurer of</u> <u>TRCP Enterprises Ltd.</u>	<u>Bobto Realty Corp. and Penn's</u> <u>Worldwide Auto Superstore Ltd.</u>
<u>Christopher Penn</u>	<u>Vice President of proposed</u> <u>tenant Penn's Worldwide Auto</u> <u>Superstore Ltd.</u>	

Do any of the foregoing principals hold elected or appointive public positions? If YES, attach details.

YES ___ NO X

Are any of the foregoing principals employed by any federal, state or local municipality or any agency, authority, department, board, or commission thereof or any other governmental or quasi-governmental organization?

YES ___ NO X

- O. Operation at existing location(s) (Complete separate Section O for each existing location):

1. (a) Location: 2400 Northern Blvd., Greenvale, NY

(b) Number of Employees: Full-Time: 59 Part-Time: 3

(c) Annual Payroll, excluding benefits: \$ 3,800,000

(d) Type of operation (e.g. manufacturing, wholesale, distribution) and products or services:

New & Used Retail Vehicles Sales, Parts, Service

(e) Size of existing facility real property (i.e., acreage of land): 2.9 Acres

(f) Buildings (number and square footage of each): 2 Buildings, 35,000 SF total

(g) Applicant's interest in the facility.

FEE TITLE (i.e. own) LEASE OTHER (describe below)

(h) If Applicant leases, state annual rent and lease expiration date: _____

2. If any of the facilities described above are located within the State of New York, is it expected that any of the described facilities will be closed or be subject to reduced activity? If YES, complete the attached Anti-Raiding Questionnaire (Schedule D).

YES ___ NO

P. Has the Applicant considered moving to another state or another location within New York State? If YES, explain circumstances.

YES ___ NO

Q. Does any one supplier or customer account for over 50% of Applicant's annual purchases or sales, respectively? If YES, attach name and contact information for supplier and/or customer, as applicable:

YES NO ___

Approximately 90% of annual purchases are from Toyota

R. Does the Applicant (including any related entity or person) or any principal(s) of the Applicant or its related entities, or any other business or concern with which such entities, persons or principal(s) have been connected, have any contractual or other relationship with the Agency or the County of Nassau? If YES, attach details.

YES ___ NO

S. **Attach a brief history of the Applicant and its business/operations.**

By signing this Application, the Applicant authorizes the Agency to obtain credit reports and other financial background information and perform other due diligence on the Applicant and/or any other entity or individual related thereto, as the Agency may deem necessary to provide the requested financial assistance.

PART II. PROPOSED PROJECT

A. Description of proposed Project (check all that apply):

- New Construction
- Addition to Existing Facility
- Renovation of Existing Facility
- Acquisition of Facility
- New machinery and equipment
- Other (specify): _____

B. Briefly describe the proposed Project, the reasons why the Project is necessary to the Applicant and why the Agency's financial assistance is necessary, and the effect the Project will have on the Applicant's business or operations:

The purpose of the Project is to renovate approximately 20,000 square feet of the existing 35,000 SF facility and expand the facility by an additional 15,000 SF to comply with Toyota USA Image II standards. Maintenance of the Toyota franchise requires such compliance. Without IDA assistance, the Project is not feasible. The new size and upgrades will permit more sales and service.

C. If the Applicant is unable to obtain financial assistance for the Project, what will be the impact on the Applicant and Nassau County? Would the Applicant proceed with the Project without Agency financial assistance? Describe.

Without IDA assistance, the Project is not financially sustainable. If the franchise is lost, sales from this facility would be absorbed by other dealerships including dealerships in Suffolk and Queens Counties.

D. Location of Project (attach map showing the location):

Street Address: 2400 Northern Blvd.

City/Village(s): Greenvale, NY 11548

Town(s): North Hempstead

School District(s): Roslyn USFD

Section: 7 Block: D Lot: 222

Census Tract Number: _____

If exact street address is not available, please provide a survey and the most precise description available.

E. Describe the present use of the Project site: Automobile sales, showroom and service facility

F. (a) What are the current real estate taxes on the Project site? (If amount of current taxes is not available, provide assessed value for each):
Land: \$ _____ Building(s): \$ _____

TOWN/GENERAL: \$46,179.95 SCHOOL: \$124,703.43 VILLAGE OF EAST HILLS: \$19,652.75

(b) Are tax certiorari proceedings currently pending with respect to the Project real property? If YES, attach details including copies of pleadings, decisions, etc.

YES _____ NO _____

G. Describe Project ownership structure (*i.e.*, Applicant or other entity):

Applicant owned.

H. To what purpose will the building or buildings to be acquired, constructed or renovated be used by the Applicant? (Include description of goods to be sold, products to be manufactured, assembled or processed and services to be rendered.)

Automobile Sales/ Showroom and Service and Parts

I. If any space in the Project is to be leased to or occupied by third parties, or is currently leased to or occupied by third parties who will remain as tenants, provide the names and contact information for each such tenant, indicate total square footage of the Project to be leased to each tenant, and describe proposed use by each tenant:

PENN'S WORLDWIDE AUTO SUPERSTORE LTD. as Tenant

J. Provide, to the extent available, the information requested, in Part I, Questions A, B, E and N, with respect to any party described in the preceding response.

Subchapter S Corporation
Inc. NY 12/22/70

EIN:
NAICS CODE: 441110

K. List principal items or categories of equipment to be acquired as part of the Project:

Auto lifts, compressors, miscellaneous auto service equipment, office furniture, fixtures and equipment including desks, computers, copiers, phone equipment

L. Will Project meet zoning/land use requirements at proposed location?

YES

NO

1. Describe present zoning/land use: Business District A

2. Describe required zoning/land use, if different: N/A

3. If a change in zoning/land use is required, please provide details/status of any request for change of zoning/land use requirements:

Village of East Hills has taken "Lead Agency" status and has granted variances For lot coverage and building height. Additional approvals are required from East Hills Planning Department for Architectural Review and Site Plans approval

M. Does the Applicant, or any related entity or person, currently hold a lease or license on the Project site? If YES, please provide details and a copy of the lease/license.

YES

NO

N. Does the Applicant, or any related entity or person, currently hold fee title to (i.e. own) the Project site?

YES

NO

If YES, indicate:

(a) Date of purchase: 1987

(b) Purchase price: \$3,500,000

(c) Balance of existing mortgage, if any: \$1,600,000

(d) Name of mortgage holder:

(e) Special conditions: _____

If NO, indicate name of present owner of Project site: _____

O. Does the Applicant or any related person or entity have an option or a contract to purchase the Project site and/or any buildings on the Project site?

YES

NO

If YES, attach copy of contract or option and indicate:

- (a) Date signed: _____
(b) Purchase price: \$ _____
(c) Closing date: _____

Is there a relationship legally or by virtue of common control or ownership between the Applicant (and/or its principals) and the seller of the Project (and/or its principals)?
If YES, describe:

YES NO

- P. Will customers personally visit the Project site for either of the following economic activities? If YES with respect to either economic activity indicated below, complete the attached Retail Questionnaire (Schedule E).

Retail Sales: YES NO Services: YES NO

- Q. Describe the social and economic conditions in the community where the Project site is or will be located and the impact of the proposed Project on the community (including impact on infrastructure, transportation, fire and police and other government-provided services):

The property is located on Northern Blvd. and is generally surrounded by commercial properties. Many properties are now vacant and in disrepair.

- R. Identify the following Project parties (if applicable):

Architect: _____ TBD _____
Engineer: _____ TBD _____
Contractors: _____ TBD _____

- S. Will the Project be designed and constructed to comply with Green Building Standards? (if YES, describe the LEED green building rating that will be achieved):

YES NO

LEED construction is not feasible for an alteration such as proposed for the Project. The areas of new construction will follow LEED concepts regarding energy efficiency and sustainability.

T. Is the proposed Project site located on a Brownfield? (if YES, provide description of contamination and proposed remediation)

YES

NO

U. Will the proposed Project produce a unique service or product or provide a service that is not otherwise available in the community in which the proposed Project site is located?

YES

NO

PART III. PROJECT COSTS

A. Provide an estimate of cost of all items listed below:

	<u>Item</u>	<u>Cost</u>
1.	Land Acquisition	\$ <u>N/A</u>
2.	Building Acquisition	\$ <u>N/A</u>
3.	Construction or Renovation	\$ <u>4,250,000</u>
4.	Site Work	\$ <u>300,000</u>
5.	Infrastructure Work	\$ <u>100,000</u>
6.	Engineering Fees	\$ <u>70,000</u>
7.	Architectural Fees	\$ <u>80,000</u>
8.	Applicant's Legal Fees	\$ <u></u>
9.	Financial Fees (incl. lender legal fees)	\$ <u></u>
10.	Other Professional Fees	\$ <u></u>
11.	Furniture, Equipment & Machinery (not included in 3. above)	\$ <u>350,000</u>
12.	Other Soft Costs (closing costs/fees)	\$ <u>150,000</u>
13.	Other (Contingency)	\$ <u>450,000</u>
	Total	\$ <u>5,750,000</u>

B. Source of Funds for Project Costs:

a.	Bank Financing:	\$ <u>5,000,000</u>
b.	Public Financing	\$ <u>N/A</u>

c.	Tax Exempt Bonds	\$	<u>N/A</u>
d.	Taxable Bonds	\$	<u>N/A</u>
e.	Equity	\$	<u>750,000</u>
TOTAL		\$	<u>5,750,000</u>

C. Have any of the above costs been paid or incurred (including contracts of sale or purchase orders) as of the date of this application? If YES, describe particulars on a separate sheet.

YES NO

D. Has the Applicant made any arrangement for the provision of third party financing? If YES, indicate with whom (subject to Agency approval) and provide a copy of any term sheet or commitment letter issued with respect to such financing.

YES NO

PRELIMINARY CONCEPTUAL APPROVAL BY TOYOTA MOTOR CREDIT

E. Construction Cost Breakdown:

Total Cost of Construction:	\$	<u>4,600,000</u>	(sum of 3 and 11 in Question A above)
Cost for materials:	\$	<u>2,125,000</u>	
% Sourced in County:		<u>75</u>	%
% Sourced in State:		<u>100</u>	% (incl. County)
Cost for labor:	\$	<u>2,125,000</u>	
% Sourced in County:		<u>75</u>	%
% Sourced in State:		<u>100</u>	% (incl. County)
Cost for "other":	\$	<u>350,000</u>	(equipment)
% Sourced in County:		<u>25</u>	%
% Sourced in County:		<u>100</u>	% (incl. County)

PART IV. COST/BENEFIT ANALYSIS

- A. If the Applicant presently operates in Nassau County, provide the current annual payroll, excluding benefits. Estimate payroll, excluding benefits, in First Year, Second Year and Third Year after completion of the Project.

	<u>Present</u>	<u>First Year</u>	<u>Second Year</u>	<u>Third Year</u>
Full-time:	\$ 3,700,000	\$ 3,950,000	\$ 4,300,000	\$ 4,700,000
Part-time:	100,000	115,000	130,000	143,000
Seasonal:				
Total Annual Payroll:	\$ 3,800,000	\$ 4,065,000	\$ 4,430,000	\$ 4,843,000

What are the average wages of employees (excluding benefits) presently employed by the Applicant in Nassau County? \$ 64,000

What is the average annual value of employee benefits paid per job, if any, for the employees presently employed by the Applicant in Nassau County? \$ 6,700

What are the estimated average wages of the jobs (excluding benefits) to be created by the Applicant upon completion of the Project? \$ 75,000

What is the estimated average annual value of employee benefits per job, if any, for jobs to be created upon completion of the Project? \$ 7,400

Estimate the percentage of jobs to be created by the Applicant upon completion of the Project that will be filled by County residents: 75 %

Please note that the Agency may utilize the foregoing employment projections and the projections set forth in Schedule C, among other things, to determine the financial assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to retain the number of jobs, types of occupations and amount of payroll with respect to the Project set forth in this Application.

- B. (i) Does the Applicant intend to employ new additional employees at the proposed Project site, or will Applicant transfer current employees from existing location(s)? If YES, describe, including the number of new employees to be hired during the year (a) starting with the date of commencement of operations (b) starting with the first anniversary of the commencement of operations and (c) starting with the second anniversary of the commencement of operations. If NO, please describe the number of current employees to be transferred and the location from where such employees would be transferred:

YES X a-8, b-7, c-5 NO

(ii) Describe the number of estimated full time equivalent construction jobs to be created as a result of undertaking the project, to the extent any:

50

C. What, if any, is the anticipated increase in the dollar amount of production, sales or services rendered as a result of the Project?

\$ 9,600,000

What percentage of the foregoing amount is subject to New York sales and use tax?

100 %

Describe any other municipal revenues that will result from the Project (excluding the above and any PILOT payments):

N/A

D. What is the estimated aggregate annual amount of goods and services to be purchased by the Applicant for each year after completion of the Project and what portion will be sourced from businesses located in the County and the State (including the County):

	<u>Amount</u>	<u>% Sourced in County</u>	<u>% Sourced in State</u>
Year 1	<u>\$ 67,485,000</u>	<u>5</u>	<u>10</u>
Year 2	<u>\$ 75,583,000</u>	<u>5</u>	<u>10</u>
Year 3	<u>\$ 84,653,000</u>	<u>5</u>	<u>10</u>

E. Describe, if applicable, other benefits to the County anticipated as a result of the Project, including a projected annual estimate of additional sales tax revenue generated, directly and indirectly, as a result of undertaking the project:

APPROXIMATELY \$ 50,000 ADDITIONAL SALES TAX TO THE COUNTY

F. Costs to the County and affected municipalities:

Estimated Value of Sales Tax Exemption: \$ 180,000

Estimated Value of Mortgage Tax Exemption: \$ 51,000

Estimated Property Tax Exemption: \$ 550,000 over 10 years

Existing Property Tax paid on the Land and/or Building: (please provide current tax bills) \$ 190,000/year

Estimated new Real Property Tax Revenue if the Project did **not** receive Real Property Tax exemption: \$ 3,000,000 over 10 years assuming Project was implemented w/o IDA assistance

Estimated new Real Property Tax Revenue if the Project does receive Real Property Tax exemption: \$ 2,450,000

G. Describe any other one-time municipal revenues (not including fees payable to the Agency) that the Project will create:

Sales tax from increased sales of cars, permit fees for building construction and tax revenue from increased jobs

PART V. PROJECT CONSTRUCTION SCHEDULE

A. Has construction work on the Project begun? If YES, indicate the percentage of completion:

1.	(a) Site clearance	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	_____ % complete
	(b) Environmental Remediation	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	_____ % complete
	(c) Foundation	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	_____ % complete
	(d) Footings	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	_____ % complete
	(e) Steel	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	_____ % complete
	(f) Masonry	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	_____ % complete
	(g) Interior	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	_____ % complete
	(h) Other (describe below):	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	_____ % complete

2. If NO to all of the above categories, what is the proposed date of commencement of construction, renovation or acquisition of the Project?

Estimated to be 4 months- Must complete design work, obtain approval from Toyota, and Architectural and Site Plan approval from Village of East Hills

B. Provide an estimate of time schedule to complete the Project and when the first use of the Project is expected to occur (attach additional sheet if necessary):

4 months to design and obtain approvals, 9-12 months for constructions.

First use of Project estimated to be 13-17 months

PART VI. ENVIRONMENTAL IMPACT

- A. What is the expected environmental impact of the Project? (Complete the attached Environmental Assessment Form (Schedule G)).

VILLAGE OF EAST HILLS HAS CLAIMED "LEAD AGENCY" STATUS AND DETERMINED THIS IS A TYPE 2 ACTION BEFORE GRANTING VARIANCES FOR LOT COVERAGE AND BUILDING HEIGHT. INSIGNIFICANT ENVIRONMENTAL IMPACT -see copy of NOTICE OF DECISION, Board of Appeals, Incorporated Village of East Hills, Schedule H

- B. Is an environmental impact statement required by Article 8 of the N.Y. Environmental Conservation Law (i.e., the New York State Environmental Quality Review Act)?

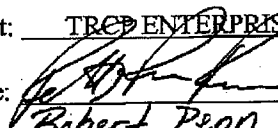
YES

NO

- C. Please be advised that the Agency may require at the sole cost and expense of the Applicant the preparation and delivery to the Agency of an environmental report in form and scope satisfactory to the Agency, depending on the responses set forth in the Environmental Assessment Form. If an environmental report has been or is being prepared in connection with the Project, please provide a copy.

- D. The Applicant authorizes the Agency to make inquiry of the United States Environmental Protection Agency, the New York State Department of Environmental Conservation or any other appropriate federal, state or local governmental agency or authority as to whether the Project site or any property adjacent to or within the immediate vicinity of the Project site is or has been identified as a site at which hazardous substances are being or have been used, stored, treated, generated, transported, processed, handled, produced, released or disposed of. The Applicant will be required to secure the written consent of the owner of the Project site to such inquiries (if the Applicant is not the owner), upon request of the Agency.

THE UNDERSIGNED HEREBY CERTIFIES that the answers and information provided above and in any statement attached hereto are true, correct and complete.

Name of
Applicant: TRCP ENTERPRISES, LTD
Signature: 
Name: Robert Penn
Title: President
Date: 2-21-11

Sworn to before me this 21st
day of February, 20 11

Lisa Ann Cairo

Notary Public

LISA ANN CAIRO
Notary Public, State of New York
No. 02CA6098015
Qualified in Nassau County
Commission Expires: 09/02/2011

**RULES AND REGULATIONS OF THE NASSAU COUNTY
INDUSTRIAL DEVELOPMENT AGENCY**

The Nassau County Industrial Development Agency (the "Agency"), in order to better secure the integrity of the projects it sponsors, declares that it is in the public interest (i) to ensure the continuity of such projects and the jobs created by such projects, (ii) to prevent the conversion of the use of the premises upon which a sponsored project is to be constructed or renovated and (iii) to limit and prevent unreasonable profiteering or exploitation of a project, and does hereby find, declare and determine as follows:

FIRST:

Upon the approval of a sponsored project, the Agency shall take title to, or acquire a leasehold or other interest in, all premises upon which an Agency sponsored project is to be constructed or renovated, and shall lease, sublease, license, sell or otherwise transfer the premises to the Applicant for a term to be determined by the Agency.

At such time as, among other things, the Applicant fails to retain or create the jobs as represented in the Application or changes the use of the project or ownership of the project or the Applicant during the life of the project in a manner inconsistent with the Application, and such employment default or change of use or ownership does not meet with the prior written approval of the Agency, a recapture of benefits may be required to be paid by the Applicant to the Agency. The amount and sufficiency (with respect to a particular applicant) of the applicable recapture of benefits payment shall be determined by the Agency and shall be set forth in the straight lease documents.

SECOND:

At such time as a proposed Project is reviewed, the members of the Agency must disclose any blood, marital or business relationships they or members of their families have or have had with the Applicant (or its affiliates). The Applicant represents that no member, manager, principal, officer or director of the Applicant has any such relationship with any member of the Agency (or any member of the family of any member of the Agency).

THIRD:

All applicants must disclose whether they have been appointed, elected or employed by New York State, any political division of New York State or any other governmental agency.

FOURTH:

All proposed lenders, title companies and their respective attorneys must be satisfactory to and approved in writing by the Agency.

Understood and Agreed to:

Name of

Applicant: TRCP ENTERPRISES, LTD

By: 

Name/Title: Robert Penn, President

**CERTIFICATION AND AGREEMENT
WITH RESPECT TO FEES AND COSTS**

The undersigned deposes and says: that I am an authorized representative of the Applicant named in the attached application for financial assistance ("Application") and that I hold the office specified below my signature at the end of this Certification and Agreement, that I am authorized and empowered to deliver this Certification and Agreement and the Application for and on behalf of the Applicant, that I am familiar with the contents of said Application (including all schedules and attachments thereto), and that said contents are true, correct and complete to my knowledge. Capitalized terms used but not otherwise defined in this Certification and Agreement shall have the meanings assigned to such terms in the Application.

The grounds of my belief relative to all matters in the Application that are not based upon my own personal knowledge are based upon investigations I have made or have caused to be made concerning the subject matter of this Application, as well as upon information acquired in the course of my duties and from the books and records of the Applicant.

As an authorized representative of the Applicant, I acknowledge and agree on behalf of the Applicant that the Applicant hereby releases the Nassau County Industrial Development Agency, its members, officers, servants, attorneys, agents and employees (collectively, the "Agency") from, agrees that the Agency shall not be liable for and agrees to indemnify, defend (with counsel selected by the Agency) and hold the Agency harmless from and against any and all liability, damages, causes of actions, losses, costs or expenses incurred by the Agency in connection with: (A) examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the financial assistance requested therein are favorably acted upon by the Agency, (B) the acquisition, construction and/or installation of the Project by the Agency, and (C) any further action taken by the Agency with respect to the Project; including, without limiting the generality of the foregoing, (i) all fees and expenses of the Agency's general counsel, transaction counsel, economic development consultant, real property tax valuation consultant and other experts and consultants (if deemed necessary or advisable by the Agency), and (ii) all other expenses incurred by the Agency in defending any suits, actions or proceedings that may arise as a result of any of the foregoing. If, for any reason whatsoever, the Applicant fails to conclude or consummate necessary negotiations or fails within a reasonable or specified period of time to take reasonable, proper or requested action or withdraws, abandons, cancels, or neglects the Application or is unable to secure third party financing or otherwise fails to conclude the Project, then upon presentation of an invoice by the Agency, its agents, attorneys or assigns, the Applicant shall pay to the Agency, its agents, attorneys or assigns, as the case may be, all fees and expenses reflected in any such invoice.

As an authorized representative of the Applicant, I acknowledge and agree on behalf of the Applicant that each of the Agency's general counsel, transaction counsel, economic development consultant, real property tax valuation consultant and other experts and consultants is an intended third-party beneficiary of this Certification and Agreement, and that each of them may (but shall not be obligated to) enforce the provisions of the immediately preceding paragraph, whether by lawsuit or otherwise, to collect the fees and expenses of such party or person incurred by the Agency (whether or not first paid by the Agency) with respect to the Application.

Upon successful closing of the "straight lease" transaction, the Applicant shall pay to the Agency an administrative fee set by the Agency (which amount is payable at closing) in accordance with the following schedule:

- (A) Six-tenths (6/10) of one percent (1%) for the first twenty million dollars (\$20,000,000) of total project costs and, if applicable, two-tenths (2/10) of one percent (1%) for any additional amounts in excess of twenty million dollars (\$20,000,000) of total project costs.

- (D) General Counsel Fee – One-tenth (1/10) of one percent (1%) of total project costs, with a minimum fee of \$2,000.
- (E) Two Thousand Five Hundred Dollars (\$2,500) closing compliance fee payable at closing and One Thousand Dollars (\$1,000) per year (or part thereof) administrative fee, payable in advance, at the closing for the first year (or part thereof) and on January 1st of each year for the term of the financing. The annual service fee is subject to periodic review and may be adjusted from time to time in the discretion of the Agency.
- (F) Refinancings – The Agency fee shall be determined on a case-by-case basis.
- (G) Assumptions – The Agency fee shall be determined on a case-by-case basis.
- (H) Modifications – The Agency fee shall be determined on a case-by-case basis.

Transaction counsel fees and expenses are payable at closing and are based on the work performed in connection with the Project.

Upon the termination of the Project, Applicant agrees to pay all costs in connection with any conveyance by the Agency to the Applicant of the Agency's interest in the Project and the termination of all related Project documents, including the fees and expenses of the Agency's general counsel, transaction counsel, and all applicable recording, filing or other related fees, taxes and charges.

TRCP ENTERPRISES, LTD

Name

Title:

[Signature]
President

Sworn to before me this 21st
day of February 2011

[Signature]

Notary Public

LISA ANN CAIRO
Notary Public, State of New York
No. 02CA6098015
Qualified in Nassau County
Commission Expires: 09/02/2011

TABLE OF SCHEDULES:

<u>Schedule</u>	<u>Title</u>	<u>Complete as Indicated Below</u>
A.	Intentionally omitted	
B.	New York State Financial and Employment Requirements for Industrial Development Agencies	All applicants
C.	Guidelines for Access to Employment Opportunities	All applicants
D.	Anti-Raiding Questionnaire	If Applicant checked "YES" in Part I, Question Q.2. of Application
E.	Retail Questionnaire	If Applicant checked "YES" in Part II, Question P of Application (See Page 11)
F.	Applicant's Financial Attachments, consisting of:	All applicants
	1. Applicant's audited financial statements for the last two fiscal years (unless included in Applicant's annual reports).	
	2. Applicant's annual reports (or Form 10-K's) for the two most recent fiscal years.	
	3. Applicant's quarterly reports (Form 10-Q's) and current reports (Form 8-K's) since the most recent Annual Report, if any.	
	4. In addition, attach the financial information described above in items F1, F2, and F3 of any anticipated Guarantor of the proposed transaction, if different than the Applicant, including the personal financial statement of any anticipated Guarantor that is a natural person.	
	5. Dun & Bradstreet report.	
G.	Environmental Assessment Form	All applicants
H.	Board of Appeals, Incorporated Village of East Hills, NOTICE OF DECISION	

Schedule A

Intentionally omitted

**NEW YORK STATE FINANCIAL AND EMPLOYMENT REPORTING
REQUIREMENTS FOR INDUSTRIAL DEVELOPMENT AGENCIES**

- A. Pursuant to applicable law, the Agency requires the completion of an Initial Employment Plan (see Schedule C) and a year-end employment plan status report, both of which shall be filed by the Nassau County Industrial Development Agency (the "Agency") with the New York State Department of Economic Development on January 15. The Project documents will require the Applicant to provide such report to the Agency on or before January 1 of each year, together with such employment verification information as the Agency may require.

Except as otherwise provided by collective bargaining agreements, the Applicant agrees to list any new employment opportunities with the New York Department of Labor Community Services Division and the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. 97-300), or any successor statute thereto (the "JTPA Entities"). In addition, except as otherwise provided by collective bargaining agreements, the Applicant, where practicable, will first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for such new employment opportunities.

- B. The Applicant will be required to file annually a statement with the New York State Department of Taxation and Finance and the Agency of the value of all sales or use tax exemptions claimed in connection with the Project by reason of the involvement of the Agency.
- C. Please be advised that the New York State Industrial Development Agency Act imposes additional annual reporting requirements on the Agency, and the Applicant will be required to furnish information in connection with such reporting, as follows:

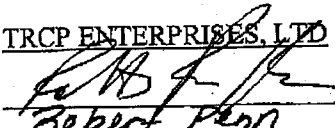
The following information must be provided for straight-lease transactions entered into or terminated during the year:

Name, address and owner of the project; total amount of tax exemptions granted (broken out by state and local sales tax, property taxes, and mortgage recording tax); payments in lieu of taxes made; total real estate taxes on the Project prior to exemption; number of jobs created and retained, and other economic benefits realized.

Failure to provide any of the aforesaid information will be constitute a DEFAULT under the Project documents to be entered into by the Agency and the Applicant in connection with the proposed Project.

Please sign below to indicate that the Applicant has read and understood the above and agrees to provide the described information on a timely basis.

Name of Applicant: TRCP ENTERPRISES, LTD

Signature: 

Name: Robert Penn

Title: President

Date: February 21, 2011

GUIDELINES FOR ACCESS TO EMPLOYMENT OPPORTUNITIES**INITIAL EMPLOYMENT PLAN**

Prior to the granting of financial assistance, the Applicant shall complete the following employment plan:

Applicant Name: TRCP ENTERPRISES, LTD
 Address: 2400 Northern Blvd., Greenvale, NY, 11548
 Type of Business: Auto Sales and Service
 Contact Person: Robert Penn Tel. No.: 516-801-5701

Please complete the following table describing the Applicant's projected employment plan following receipt of financial assistance:

<u>Current and Planned Occupations</u> (provide NAICS Code for each)	<u>Current Number Full Time Equivalent Jobs Per Occupation</u>		<u>Estimated Number of Full Time Equivalent Jobs in the County After Completion of the Project:</u>		
	<u>County</u>	<u>Statewide</u>	<u>1 year</u>	<u>2 years</u>	<u>3 years</u>
	<u>81111-Auto Maintenance And repairs</u>	<u>19</u>	<u>19</u>	<u>22</u>	<u>25</u>
<u>522220-Sale / Financing</u>	<u>32</u>	<u>32</u>	<u>36</u>	<u>39</u>	<u>41</u>
<u>551114-Office/Administ.</u>	<u>8</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>

Please indicate the number of temporary construction jobs anticipated to be created in connection with the acquisition, construction and/or renovation of the Project:

Please indicate the estimated hiring dates for the new jobs shown above and any special recruitment or training that will be required:

JANUARY, 2012 OCTOBER 2012 JUNE 2013

Are the Applicant's employees currently covered by a collective bargaining agreement?

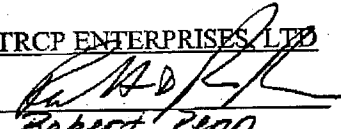
YES X -TECHNICIANS ONLY NO

IF YES, Union Name and Local: NATIONAL ORGANIZATION OF INDUSTRIAL TRADE UNIONS
("NOITU") - 1A

Please note that the Agency may utilize the foregoing employment projections, among other things, to determine the financial assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to retain the above number of jobs, types of occupations and amount of payroll with respect to the proposed project.

Attached hereto is a true, correct and complete copy of the Applicant's most recent Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return (Form NYS-45-MN) (first page only). Upon request of the Agency, the Applicant shall provide such other or additional information or documentation as the Agency may require with respect to the Applicant's current employment levels in the State of New York.

The UNDERSIGNED HEREBY CERTIFIES that the answers and information provided above and in any statement attached hereto are true, correct and complete.

Name of Applicant: TRCP ENTERPRISES, LTD
Signature: 
Name: Robert Penn
Title: President
Date: 2-21-11

ANTI-RAIDING QUESTIONNAIRE

(To be completed by Applicant if Applicant checked "YES" in Part I, Question Q.2 of the Application for Financial Assistance)

A. Will the completion of the Project result in the removal of a plant or facility of Applicant, or of a proposed occupant of the Project, from an area in New York State (but outside of Nassau County) to an area within Nassau County?

YES _____ NO X

If the answer to Question A is YES, please provide the following information:

Address of the to-be-removed plant or facility: _____

Names of all current occupants of the to-be-removed plant or facility: _____

B. Will the completion of the Project result in the abandonment of one or more plants or facilities of the Applicant, or of a proposed occupant of the Project, located in an area of the State of New York other than in Nassau County?

YES _____ NO X

If the answer to Question B is YES, please provide the following information:

Addresses of the to-be-abandoned plants or facilities: _____

Names of all current occupants of the to-be-abandoned plants or facilities: _____

C. Has the Applicant contacted the local industrial development agency at which its current plants or facilities in New York State are located with respect to the Applicant's intention to move or abandon such plants or facilities? N/A

YES _____ NO X

If the answer to Question C is YES, please provide details in a separate attachment.

IF THE ANSWER TO EITHER QUESTION A OR B IS "YES", ANSWER QUESTIONS D AND E.

D. Is the Project reasonably necessary to preserve the competitive position of the Applicant, or of a proposed occupant of the Project, in its industry?

YES _____

NO _____

E. Is the Project reasonably necessary to discourage the Applicant, or a proposed occupant of the Project, from removing such plant or facility to a location outside of the State of New York?

YES _____

NO _____

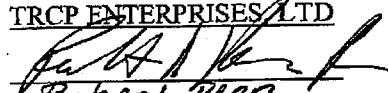
IF THE ANSWER TO EITHER QUESTION D OR E IS "YES", PLEASE PROVIDE DETAILS IN A SEPARATE ATTACHMENT.

THE UNDER SIGNED HEREBY CERTIFIES that the answers and information provided above and in any statement attached hereto are true, correct and complete.

Name of
Applicant:

TRCP ENTERPRISES LTD

Signature:



Name:

Robert Pean

Title:

President

Date:

2-21-11

RETAIL QUESTIONNAIRE

(To be completed by Applicant if Applicant checked either "YES" in Part II, Question P of the Application for Financial Assistance)

- A. Will any portion of the Project (including that portion of the cost to be financed from equity or other sources) consist of facilities or property that are or will be primarily used in making retail sales to customers who personally visit the Project?

YES X NO

For purposes of Question A, the term "retail sales" means (i) sales by a registered vendor under Article 28 of Tax Law of the State of New York (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

- B. If the answer to Question A is YES, what percentage of the cost of the Project (including that portion of the cost to be financed from equity or other sources) will be expended on such facilities or property primarily used in making retail sales of goods or services to customers who personally visit the Project?

90 %

- C. If the answer to Question A is YES, and the amount entered for Question B is greater than 33.33%, indicate whether any of the following apply to the Project:

1. Will the Project be operated by a not-for-profit corporation?

YES NO X

2. Is the Project likely to attract a significant number of visitors from outside the economic development region (i.e., Long Island) in which the Project is or will be located?

YES NO X

3. Would the Project occupant, but for the contemplated financial assistance from the Agency, locate the related jobs outside the State of New York?

YES NO X

4. Is the predominant purpose of the Project to make available goods or services which would not, but for the Project, be reasonably accessible to the residents of the city, town or village within which the Project will be located, because of a lack of reasonably accessible retail trade facilities offering such goods or services?

YES NO X

5. Will the Project be located in one of the following: (a) an area designed as an economic development zone pursuant to Article 18-B of the General Municipal Law; or (b) a census tract or block numbering area (or census tract or block numbering area contiguous thereto) which, according to the most recent census data, has (i) a poverty rate of at least 20% for the year in which the data relates, or at least 20% of the households receiving public assistance, and (ii) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates?

YES

NO

If the answer to any of the subdivisions 1 through 5 of Question C is YES, attach details.

- D. If the answer to any of the subdivisions 3 through 5 of Question C is YES, will the Project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York? If YES, attach details.

YES

NO

- E. State percentage of the Applicant's annual gross revenues comprised of each of the following:

Retail Sales: 75 %

Services: 25 %


- F. State percentage of Project premises utilized for same:

Retail Sales: 75 %

Services: 25 %

The UNDERSIGNED HEREBY CERTIFIES that the answers and information provided above and in any statement attached hereto are true, correct and complete.

Name of
Applicant:
Signature:
Name:
Title:
Date:

TRCP ENTERPRISES, LTD.

Robert Penn
President
2-21-11

Schedule F

APPLICANT'S FINANCIAL ATTACHMENTS

Schedule G

ENVIRONMENTAL ASSESSMENT FORM


Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR TRCP ENTERPRISES, LTD	2. PROJECT NAME PENN TOYOTA
3. PROJECT LOCATION: Municipality EAST HILLS, TOWN OF N. HEMPSTEAD County NASSAU	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) 2400 NORTHERN BLVD., GREENVALE, NEW YORK 11548 SOUTH SIDE OF NORTHERN BLVD., WEST OF CHESTNUT DRIVE	
5. PROPOSED ACTION IS: <input type="checkbox"/> New <input checked="" type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: EXISTING AUTO DEALERSHIP W/ 2 BUILDINGS (35,000 SF TOTAL) ON 121,000SF (2.78 ACRES) LAND. RENOVATE APPROX. 20,000 SF OF EXISTING AND EXPAND SALES/SERVICE AREA WITH 15,000SF NEW CONSTRUCTION. ENTIRE SITE CURRENTLY DEVELOPED. NEW CONSTRUCTION ON AREA OF EXISTING PAVED PARKING	
7. AMOUNT OF LAND AFFECTED: Initially 2.78 acres Ultimately 2.78 acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly BZA OF EAST HILLS APPROVED VARIANCES:BLDG HEIGHT & LOT COVERAGE	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: PROPERTY IN APPROVED COMMERCIAL CORRIDOR. LAND TO SOUTH IS RESIDENTIAL	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approvals: VILLAGE OF EAST HILLS-1. ARCHITECTURAL REVIEW BD, 2. PLANNING BD-SITE PLAN. 3. BUILDING PERMIT; NCDOH-SEPTIC SYSTEM & OIL/WATER SEPARATOR.	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approvals: VARIANCES FOR BLDG HEIGHT AND LOT COVERAGE APPROVED BY VILLAGE OF EAST HILLS BOARD OF ZONING APPEALS	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: TRCP ENTERPRISES, LTD Date: JAN. 24, 2011 Signature: 	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

<p>A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)</p> <p>C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:</p> <p>C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:</p> <p>C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:</p> <p>C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:</p> <p>C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:</p> <p>C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:</p> <p>C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:</p>
<p>D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, explain briefly:</p>
<p>E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, explain briefly:</p>

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

<p><input type="checkbox"/> Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.</p>	
<p><input type="checkbox"/> Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide, on attachments as necessary, the reasons supporting this determination.</p>	
<p>JAN. 24, 2011</p>	
<p>_____</p> <p style="text-align: center;">Name of Lead Agency</p>	<p>_____</p> <p style="text-align: center;">Date</p>
<p>_____</p> <p style="text-align: center;">Print or Type Name of Responsible Officer in Lead Agency</p>	<p>_____</p> <p style="text-align: center;">Title of Responsible Officer</p>
<p>_____</p> <p style="text-align: center;">Signature of Responsible Officer in Lead Agency</p>	<p>_____</p> <p style="text-align: center;">Signature of Preparer (if different from responsible officer)</p>

Reset

Schedule H

Board of Appeals, Incorporated Village of East Hills

NOTICE OF DECISION

NOTICE OF DECISION

Board of Appeals, Incorporated Village of East Hills

Meeting and Public Hearing of the Zoning Board of Appeals (the "Board") of the Incorporated Village of East Hills (the "Village") held on August 17, 2010 and October 26, 2010 at the Village Hall, 209 Harbor Hill Road, East Hills, New York.

Penns Worldwide Auto Superstore Ltd. d/b/a Penn Toyota (the "Applicant") requests three variances on the property known as 2400 Northern Boulevard, designated as Section 7, Block D, Lot 222 on the Nassau County Land and Tax Map (the "Premises") and within the Business A district of the Village. Pursuant to the Village of East Hills Zoning Code (the "Code") §214-110 regarding lot coverage, the maximum allowed is 30%, the Applicant's proposed plan calls for coverage of 32.7%, and therefore the Applicant requests a variance of 2.7%. Pursuant to Code §217-72, the maximum building height is eighteen feet, the proposed plan calls for twenty four feet in building height in certain areas. Therefore, a six foot variance is requested. Pursuant to Code §214-75, the Applicant's front yard setback shall not be less than 100 feet. The Applicant's proposed set back is 18.7 feet and the Applicant requests a variance.

Procedural History

On August 17 and October 26, 2010, the Applicant, by counsel, Michael Sahn, and several witnesses presented its request for variances. The hearing transcripts are incorporated by reference. Upon the completion of the Applicant's presentation and all public comment, upon the motion of Stanley Dessen, seconded by John Wagner, the hearing was closed and, upon public deliberations, two variance requests were unanimously granted subject to conditions.

Findings of Fact

1. Inspection of the subject property was made by members of the Board.

2. Pursuant to Board of Appeals procedure, the owners of the adjacent properties were notified and had opportunity to be heard.

3. For purposes of 6 N.Y.C.R.R. § 617.2 (u), the Board is the "Lead Agency" for this application. Pursuant to the Environmental Conservation Law § 8-0109(4) and 6 N.Y.C.R.R. § 617.5, the application is for a "Type II" action.

4. At the initial hearing session, the Applicant explained that its Premises consists of 2.7775 acres, with 270 feet of frontage on Northern Boulevard (a commercial corridor), a depth of 450 feet, and a rear property line that runs 270 feet. The existing building area comprises 23,760 square feet including a two-story main building with an automobile showroom for sales and associated offices. A second building is used for new car preparation. The Applicant explained that the buildings were constructed in about 1957 and there is a need to modernize and improve.

5. The Applicant's plans call for an expanded showroom, relocating office space, and refurbishing the Premises in a variety of ways. For example, the number of service bays for customers is to be increased with an expanded customer waiting room. To accomplish this, the Applicant will be taking down a substantial portion of the main building and constructing a new structure. Given the Premises' topography, with increasing elevation from the front of the Premises, some regrading work will be needed but the Applicant represented that all existing landscaping around the Premises will be maintained. The Applicant also agreed that a planted and landscaped buffer can be installed for the twenty four foot "clear drive aisle" depicted on its plans by cross-hatches. Further, the existing shed will be removed and existing fencing that is the subject of a prior variance will be maintained including the landscaping installed with the fence.

6. As to the requested variance for the front yard setback, there is an existing encroachment authorized by a prior variance. The Applicant's plans call for the encroachment to be increased an additional 6.3 feet. The Applicant explained that the request is made to accommodate non-habitable, non-usable rectangular columns that are an architectural detail, *i.e.*, an icon, typical of newer Toyota dealerships. The Board asked several questions regarding this variance request. At the first hearing session, the Applicant acknowledged that two feet of the increased encroachment could be avoided by a slight design change and that there was a possibility that the request could be minimized further.

7. At the second hearing session, the Applicant presented a Revised Site Plan, dated October 18, 2010 (the "Revised Site Plan"), a Landscaping Plan, dated October 8, 2010 (the "Landscaping Plan"), and Architectural Plans, consisting of Drawing Nos. A-1, A-2, and A-3, dated July 29, 2010, last revised September 29, 2010 (the "Architectural Plans"). The Revised Site Plan eliminated the Applicant's variance request for an increased front-yard set back encroachment. The existing twenty five foot setback, pursuant to a prior variance, will be maintained.

8. As to the Applicant's request for a 2.7% increase in lot coverage, under the circumstances here, this is not a substantial request. The Premises are on a fully developed commercial corridor. The principal building on the Premises is being modernized and largely reconstructed. Further, the Applicant has submitted a Landscaping Plan to, among other things, augment landscaping at the rear and easterly portions of the Premises to provide supplemental insulation to and from nearby residences. The Applicant also agreed that the Village's Building Department and/or this Board may require further supplemental landscaping. At the Board's request, the Applicant agreed to replace the rear property line fence with a new eight foot

stockade fence (at least matching the height of the existing fence), and to landscape the area between the second building (not the showroom/office building) on the Premises and the rear property line by: (a) appropriately addressing the grade, (b) adding topsoil, and (c) planting taller shrubbery and/or trees in front of the eight foot fence to provide screening.

9. The Applicant's offer and/or agreement to install rear fencing and increased landscaping highlights that the lot coverage variance can be accomplished without an undesirable neighborhood change and without an adverse effect and/or impact in neighborhood conditions, especially given the modest variance request as to lot coverage. Although this variance request is for a self-created condition and the Premises' restoration could be accomplished with a smaller building, under the circumstances, the benefit to the Applicant from a variance grant, subject to conditions, outweighs the potential for harm to the health, safety, and welfare of the community.

10. As to the height variance requested, at the first hearing session, the Applicant presented a "rough layout plan" that depicted heights at various main building locations. The existing condition is variable heights up to twenty one feet except for the thirty six foot existing tower structure. Under the new plan, the main building's front corners' heights will reach twenty two feet. Moving to the south, the height becomes twenty one feet, while on the easterly side, the proposal is for twenty four feet of height. The rear corner height will be, respectively, seventeen feet at the east and sixteen feet to the west. The Applicant stressed that there are only two areas of the main building with twenty four foot heights although a variance is still needed for lesser heights exceeding eighteen feet. The height variations reflect site topography to allow for interior building uniformity. According to the Applicant's plans, a more efficient commercial space, with a more appealing facade, and a uniform design will replace the existing building. This of course is not an undesirable neighborhood change. Instead, improvement is

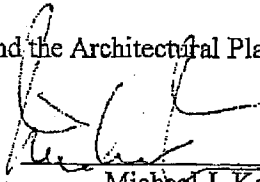
sought. Again, the factors of self-created difficulty, possibility of potentially feasible alternatives, and/or whether this variance request is deemed substantial are outweighed by the benefit to both the Applicant and the Village community by the proposed extensive refurbishing of the Premises. On balance, the benefit to the Applicant outweighs any potential harm to the health, safety, and welfare of the Village community if the application, as amended, is granted subject to conditions.

Determination

11. Subject to conditions, the Applicant is granted:
 - (a) a height variance to allow construction in accordance with the heights and locations specified in paragraph 10 of this Notice of Decision and in accordance with the Architectural Plans and Revised Site Plan; and
 - (b) a variance for a maximum lot coverage of 32.7%.

12. The conditions of these variances are:
 - (a) implementation of the Landscaping Plan;
 - (b) supplemental landscaping in front of the rear property line including regrading, supplementation of topsoil, and planting and maintenance of screening shrubbery and trees. In addition, an eight foot stockade fence is to be installed and maintained along the rear property line; and
 - (c) all work is to be otherwise performed in accordance with the Code, the Revised Site Plan, and the Architectural Plans.

IT IS SO ORDERED.



Michael J. Kosinski
Chairman
Zoning Board of Appeals
of the Incorporated Village of East Hills

Dated: January 4, 2011

Filed: *January 10, 2011*

Donna Gooch, Village Clerk

Donna Gooch

Application to Nassau County IDA
Attachment

A. TRCP ENTERPRISES LTD

TRCP is the real estate company that leases the land that Penn's Worldwide Auto Superstore, LTD operates on.

TOYOTA TERRITORY AGREEMENT

PMA is Penn Toyota's "Primary Market Area". This refers to an approximate ten mile radius around our dealership location. Penn Toyota is responsible for maintaining a certain level of vehicle registrations in this area. This area is protected from the installation of additional Toyota franchises, and must operate under certain marketing guidelines for our sales and service operations.

B. Number of Vehicles Sold by area

<u>2009</u>	<u>2010</u>
Nassau: 1712	1681
Suffolk: 156	185
NYC: 566	522
Total: 2434	2388