Date: January 10, 2018

At a meeting of the Town of Brookhaven Industrial Development Agency (the "**Agency**"), held on the 10th day of January, 2018, at 1 Independence Hill, 2nd Floor, Farmingville, New York 11738, the following members of the Agency were:

Present: Frederick C. Braun, III
Martin Callahan
Michael Kelly
Scott Middleton
Gary Pollakusky
Ann-Marie Scheidt

Recused:

Absent: Felix J. Grucci, Jr.

Also Present: Lisa M. G. Mulligan, Chief Executive Officer

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to acquisition of a leasehold interest in and title to a certain industrial development facility more particularly described below (Overbay, LLC 2018 Facility) and the leasing of the facility to Overbay, LLC.

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

Voting Aye	Voting Nay
Braun	
Callahan	
Kelly	
Middleton	
Pollakusky	
Scheidt	

RESOLUTION OF THE TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE APPOINTMENT OF OVERBAY, LLC, A NEW YORK LIMITED LIABILITY COMPANY, ON BEHALF OF ITSELF AND/OR THE PRINCIPALS OF OVERBAY, LLC AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING AS AGENT OF THE AGENCY FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING AND EQUIPPING THE FACILITY, APPROVING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF SUCH INDUSTRIAL DEVELOPMENT FACILITY AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE FACILITY AND APPROVING THE FORM, SUBSTANCE AND EXECUTION OF RELATED DOCUMENTS

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 358 of the Laws of 1970 of the State of New York, as amended from time to time (collectively, the "**Act**"), the Town of Brookhaven Industrial Development Agency (the "**Agency**"), was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, Overbay, LLC, a limited liability company organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Overbay, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "**Company**"), has applied to the Agency for assistance in connection with (i) the construction on an approximately 1.84 acre parcel of land located at 217 West Broadway Port Jefferson, New York 11777 (the "**Land**"), of an approximately 54,000 square foot building, consisting of approximately 52 apartments, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the "**Improvements**"), and (ii) the acquisition and installation therein of certain equipment and personal property (the "**Equipment**"; and, together with the Land and the Improvements, the "**Facility**"), which Facility will be leased by the Company to the Agency and subleased by the Agency back to the Company, and used by the Company as a residential apartment building to be subleased to various residential tenants; and

WHEREAS, the Agency will acquire a leasehold interest in the Land and the Improvements pursuant to a certain Company Lease Agreement, dated as of January 1, 2018 or such other date as the Chairman, the Chief Executive Officer of the Agency and counsel to the Agency shall agree (the "**Company Lease**"), by and between the Company and the Agency; and

WHEREAS, the Agency will acquire title to the Equipment pursuant to a certain Bill of Sale, dated the Closing Date (as defined in the hereinafter defined Lease Agreement) (the "**Bill of Sale**"), from the Company to the Agency; and

WHEREAS, the Agency will sublease and lease the Facility to the Company pursuant to a certain Lease and Project Agreement, dated as of January 1, 2018 or such other date as the Chairman, the Chief Executive Officer of the Agency and counsel to the Agency shall agree (the "**Lease Agreement**"), by and between the Agency and the Company; and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company in the form of: (i) exemptions from mortgage recording taxes for one or more mortgages securing the principal amount presently estimated to be $10,765,000 but not to exceed $11,500,000 in connection with the financing of the acquisition, construction and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, constructing and equipping of the Facility, (ii) exemptions from sales and use taxes in an amount not to exceed $277,380, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, and (iii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit C hereof), consistent with the policies of the Agency; and

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

WHEREAS, as security for a loan or loans, the Agency and the Company will execute and deliver to Sun National Bank, or to such other lender or lenders to be determined (collectively, the "**Lender**"), a mortgage or mortgages, and such other loan documents satisfactory to the Agency, upon advice of counsel, in both form and substance, as may be reasonably required by the Lender, to be dated a date to be determined, in connection with the financing, any refinancing or permanent financing of the costs of the acquisition, construction and equipping of the Facility (collectively, the "**Loan Documents**"); and

WHEREAS, public hearings (the "**Hearings**") were held on January 30, 2017 and January 10, 2018 and notice of the Hearings were given and such notice (together with proof of publication) together with the minutes of the Hearing are in substantially in the form annexed hereto as Exhibits A and B respectively; and

WHEREAS, a letter from Paul Casciano, Ed.D., Superintendent of Schools of the Port Jefferson School District, dated January 30, 2017 (the "**Port Jefferson SD Letter**"), was submitted to the Agency at the Hearing held on January 30, 2017 and read into the record, a copy of which Port Jefferson SD Letter is attached hereto as a part of the minutes of said Hearing attached as Exhibit B-1; and

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

WHEREAS, the Agency required the Company to provide to the Agency a feasibility report (the "**Feasibility Study**"), together with such letters or reports from interested parties and governmental agencies or officials (the "**Letters of Support**") (the Feasibility Study and

the Letters of Support are collectively, the "**Requisite Materials**") to enable the Agency to make findings and determinations that the Facility qualifies as a "project" under the Act and that the Facility satisfies all other requirements of the Act, and such Requisite Materials are listed below and attached as Exhibit E hereof:

1. Economic Impact Analysis – Water's Edge, dated April 16, 2017 by Nelson, Pope & Voorhis, LLC (NPV);

2. Fiscal and Economic Impact Analysis and Assessment of Project Needs and Benefits – Water's Edge, dated August 23, 2010 by NPV;

3. Greater Port Jefferson Chamber of Commerce Letter, dated March 1, 2017;

4. New York Law Journal Article, dated March 22, 2017 on Eligibility of Residential Developments for IDA Benefits by Anthony Guardino, Esq.; and

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

WHEREAS, the Agency's Uniform Tax Exemption Policy (the "**UTEP**"), which such UTEP is annexed hereto as Exhibit F, provides for the granting of financial assistance by the Agency including the abatement of real property taxes for a period of fifteen (15) years as contemplated on Exhibit C attached hereto pursuant to Section 7(D)(1); and

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

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

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

WHEREAS, the Agency constitutes an "Involved Agency" (as defined in SEQR); and

WHEREAS, the construction and operation of the Facility is an "Action" under SEQR; and

WHEREAS, the Planning Board of the Incorporated Village of Port Jefferson (the "**Lead Agency**"), as an Involved Agency under SEQR, determined that the Action is an "Type I Action" for SEQR purposes, coordinated review with all potential Involved Agencies, and requested to act as Lead Agency for purposes of review of the Action under SEQR; and

WHEREAS, no Involved Agency objected to the Board, acting as Lead Agency for purposes of review of the Facility under SEQR, and therefore, the Board, was the Lead Agency; and

WHEREAS, the Company submitted to the Lead Agency, Part I of the NYS DEC Environmental Assessment Form and other related environmental documents (collectively, the "**Requisite Environmental Materials**"), for the Action and the Lead Agency accepted such Requisite Environmental Materials; and

WHEREAS, the Lead Agency, following a coordinated review, adopted a positive declaration on July 29, 2010, requiring the completion of an Environmental Impact Statement (the "**EIS**"); and

WHEREAS, the applicant submitted a Draft Environmental Impact Statement (the "**First DEIS**"), dated November, 2012 to the Lead Agency; and

WHEREAS, on March 19, 2013, the Lead Agency determined the DEIS to be inadequate; and

WHEREAS, a revised DEIS was submitted to the Lead Agency on August 30, 2013 (the "**Revised DEIS**"; and together with the First DEIS, the "**DEIS**"); and

WHEREAS, the Lead Agency determined the DEIS to be adequate on October 1, 2013; and

WHEREAS, on October 30, 2013, a public hearing was held on the DEIS, at which time all interested parties were given an opportunity to be heard; and

WHEREAS, the public comment period on the DEIS was closed on November 8, 2013; and

WHEREAS, on June 11, 2014, the Lead Agency accepted the Final Environmental Impact Statement (the "**FEIS**"); and

WHEREAS, the Lead Agency issued its findings statement on July 10, 2014 (the "**Findings Statement**"); and

WHEREAS, as an Involved Agency, the Agency must make its own findings under SEQR prior to funding, undertaking, or approving an Action; and

WHEREAS, the Agency has reviewed the Requisite Environmental Materials, the DEIS and the FEIS, and the documents incorporated by reference therein, as well as such other documents as the Agency felt it necessary or appropriate to examine to adequately review the proposed Action; and

WHEREAS, the Agency finds that the Findings Statement attached hereto as Exhibit D accurately and adequately examines environmental issues presented by the Action; and

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

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

Section 1. The Agency hereby finds and determines:

(a) The Action is a Type 1 Action pursuant to SEQR.

(b) The Agency's jurisdiction over the Facility is the provision of financial and other assistance as authorized under Article 18-A of the General Municipal Law of the State of New York and Chapter 1030 of the Laws of 1969 of the State of New York; together with Chapter 358 of the Laws of 1970 of the State of New York for certain components of the Action.

(c) Based upon an independent review by the Agency of the DEIS, FEIS, and the Lead Agency's Findings Statement, the Agency hereby concurs in the Lead Agency's findings and decisions contained in the Findings Statement and hereby adopts the Findings Statement attached hereto as Exhibit D as its own Findings Statement under SEQR.

(d) Having considered the DEIS, FEIS, the Findings Statement, and such other documents as may be necessary or appropriate, the Agency certifies that:

(i) The requirements of 6 NYCRR Part 617 have been met;

(ii) Consistent with the social, economic and other essential considerations, from among the reasonable alternatives thereto, the Action is one which minimizes or avoids adverse environmental effects to the maximum extent practicable, including effects disclosed in the DEIS, FEIS, and the Findings Statement; and

(iii) Consistent with social, economic, and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the DEIS, FEIS, and the Findings Statement will be minimized or avoided by incorporating as conditions those mitigative measures which were identified as practicable.

(e) The basis for this decision is set forth in the Findings Statement attached as Exhibit D hereto and incorporated by reference herein, and thus all of the provisions of SEQR have been complied with.

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

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

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

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

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

Section 3. The Agency hereby finds and determines:

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

(b) The Facility constitutes a "project", as such term is defined in the Act; and

(c) The acquisition, construction and equipping of the Facility and the leasing of the Facility to the Company, will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Town of Brookhaven, and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(d) The acquisition, construction and equipping of the Facility is reasonably necessary to induce the Company to maintain and expand its business operations in the State of New York; and

(e) Based upon representations of the Company and counsel to the Company, the Facility conforms with the local zoning laws and planning regulations of the Town of Brookhaven, Suffolk County, and all regional and local land use plans for the area in which the Facility is located; and

(f) It is desirable and in the public interest for the Agency to lease the Facility to the Company; and

(g) The Company Lease will be an effective instrument whereby the Agency leases the Land and the Improvements from the Company; and

(h) The Lease Agreement will be an effective instrument whereby the Agency leases the Facility to the Company, the Agency and the Company set forth the terms and conditions of their agreement regarding payments-in-lieu of taxes, the Company agrees to comply with all Environmental Laws (as defined therein) applicable to the Facility and will describe the circumstances in which the Agency may recapture some or all of the benefits granted to the Company; and

(i) The Loan Documents to which the Agency is a party will be effective instruments whereby the Agency and the Company agree to secure the Loan made to the Company by the Lender.

Section 4. The Agency has assessed all material information included in connection with the Company's application for financial assistance, including but not limited to, the cost-benefit analysis prepared by the Agency and such information has provided the Agency a reasonable basis for its decision to provide the financial assistance described herein to the Company.

Section 5. In consequence of the foregoing, the Agency hereby determines to: (i) lease the Land and the Improvements from the Company pursuant to the Company Lease, (ii) execute, deliver and perform the Company Lease, (iii) lease and sublease the Facility to the Company pursuant to the Lease Agreement, (iv) execute, deliver and perform the Lease Agreement, (v) grant a mortgage on and security interest in and to the Facility pursuant to the Loan Documents, and (vi) execute, deliver and perform the Loan Documents to which the Agency is a party.

Section 6. The Agency is hereby authorized to acquire the real property and personal property described in Exhibit A and Exhibit B, respectively, to the Lease Agreement, and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition are hereby approved, ratified and confirmed.

Section 7. The Agency hereby authorizes and approves the following economic benefits to be granted to the Company in connection with the acquisition, construction and equipping of the Facility in the form of: (i) exemptions from mortgage recording taxes for one or more mortgages securing the principal amount presently estimated to be $10,765,000 but not to exceed $11,500,000 in connection with the financing of the acquisition, construction and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, constructing and equipping of the Facility, (ii) exemptions from sales and use taxes in an amount not to exceed $277,380, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, and (iii) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit C hereof), consistent with the policies of the Agency.

Section 8. Subject to the provisions of this resolution, the Company is herewith and hereby appointed the agent of the Agency to acquire, construct and equip the Facility. The Company is hereby empowered to delegate its status as agent of the Agency to its agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Company may choose in order to acquire, construct and equip the Facility. The Agency hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Company as agents of the Agency solely for purposes of making sales or leases of goods, services and supplies to the Facility, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Company, as agent of the Agency, shall be deemed to be on behalf of the Agency and for the benefit of the Facility. This agency appointment expressly excludes the purchase by the Company of any motor vehicles, including any cars, trucks, vans or buses which are licensed by the Department of Motor Vehicles for use on public highways or streets. The Company shall indemnify the Agency with respect to any transaction of any kind between and among the agents, subagents, contractors, subcontractors, materialmen, vendors and/or suppliers and the Company, as agent of the Agency. The aforesaid appointment of the Company as agent of the Agency to acquire, construct and equip the Facility shall expire at the earlier of (a) the completion of such activities and improvements, (b) a date which the Agency designates, or (c) the date on which the Company has received exemptions from sales and use taxes in an amount not to exceed $277,380 in connection with the purchase or lease of equipment, building materials, services or other personal property; provided however, such appointment may be extended at the discretion of the Agency, upon the written request of the Company if such activities and improvements are not completed by such time. The aforesaid appointment of the Company is subject to the completion of the transaction and the execution of the documents contemplated by this resolution.

Section 9. The Company hereby agrees to comply with Section 875 of the Act. The Company further agrees that the tax exemptions and abatements provided pursuant to the Act and the appointment of the Company as agent of the Agency pursuant to this Authorizing Resolution are subject to termination and recapture of benefits pursuant to Sections 859-a and 875 of the Act and the recapture provisions of the Lease Agreement.

Section 10. The form and substance of the Company Lease, the Lease Agreement and the Loan Documents to which the Agency is a party (each in substantially the forms presented to or approved by the Agency and which, prior to the execution and delivery thereof, may be redated and renamed) are hereby approved.

Section 11.

(a) The Chairman, the Chief Executive Officer of the Agency or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Company Lease, the Lease Agreement and the Loan Documents to which the Agency is a party, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, the Chief Executive Officer of the Agency or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman and counsel to the Agency, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively

called the "**Agency Documents**"). The execution thereof by the Chairman, the Chief Executive Officer of the Agency or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, the Chief Executive Officer of the Agency or any member of the Agency are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 12. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments and documents, pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 13. Any expenses incurred by the Agency with respect to the Facility shall be paid by the Company. By acceptance hereof, the Company agrees to pay such expenses and further agree to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Facility.

Section 14. This resolution shall take effect immediately.

ADOPTED: January 10, 2018

ACCEPTED: January __, 2018

OVERBAY, LLC

By:_____
Name:
Title:

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

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

That I have compared the annexed extract of the minutes of the meeting of the Town of Brookhaven Industrial Development Agency (the "**Agency**"), including the resolutions contained therein, held on the 10th day of January, 2018, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand as of the 10th day of January, 2018.

By: _____
Secretary

EXHIBIT A-1

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York State General Municipal Law will be held by the Town of Brookhaven Industrial Development Agency (the "**Agency**") on the 30th day of January, 2017, at 10:00 a.m. local time, at Port Jefferson Village Hall, 121 West Broadway, First Floor Conference Room, Port Jefferson, New York 11777, in connection with the following matters:

Overbay, LLC, a limited liability company organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Overbay, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "**Company**"), has applied to the Agency for assistance in connection with (i) the acquisition of an approximately 1.84 acre parcel of land located at 217 West Broadway Port Jefferson, New York 11777 (the "**Land**"), (ii) the demolition of two (2) existing buildings, totaling approximately 15,000 square feet located thereon and the construction thereon of an approximately 54,000 square foot building, consisting of approximately 52 apartments, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the "**Improvements**"), and (iii) the acquisition and installation therein of certain equipment and personal property (the "**Equipment**"; and, together with the Land and the Improvements, the "**Facility**"), which Facility will be leased by the Agency to the Company, and used by the Company as a residential apartment building to be subleased to various residential tenants. The Facility will be initially owned, operated and/or managed by the Company.

The Agency will acquire a leasehold interest in the Land and the Improvements and title to the Equipment and lease the Facility to the Company. The Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from mortgage recording taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes in connection with the demolition, construction and equipping of the Facility and exemption of real property taxes consistent with the policies of the Agency.

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

Dated: January 17, 2017

TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY

By: Lisa MG Mulligan
Title: Chief Executive Officer

EXHIBIT A-2

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York State General Municipal Law will be held by the Town of Brookhaven Industrial Development Agency (the "**Agency**") on the 10th day of January, 2018, at 9:30 a.m. local time, at Port Jefferson Village Hall, 121 West Broadway, First Floor Conference Room, Port Jefferson, New York 11777, in connection with the following matters:

Overbay, LLC, a limited liability company organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Overbay, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "**Company**"), has applied to the Agency for assistance in connection with (i) the construction on an approximately 1.84 acre parcel of land located at 217 West Broadway Port Jefferson, New York 11777 (the "**Land**"), of an approximately 54,000 square foot building, consisting of approximately 52 apartments, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the "**Improvements**"), and (ii) the acquisition and installation therein of certain equipment and personal property (the "**Equipment**"; and, together with the Land and the Improvements, the "**Facility**"), which Facility will be leased by the Company to the Agency and subleased by the Agency back to the Company, and used by the Company as a residential apartment building to be subleased to various residential tenants. The Facility will be initially owned, operated and/or managed by the Company.

The Agency will acquire a leasehold interest in the Land and the Improvements and title to the Equipment and will sublease and lease the Facility to the Company. The Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from mortgage recording taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes in connection with the demolition, construction and equipping of the Facility and exemption of real property taxes consistent with the policies of the Agency.

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

Dated: December 30, 2017

TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY

By: Lisa MG Mulligan
Title: Chief Executive Officer

EXHIBIT B-1

MINUTES OF PUBLIC HEARING HELD ON
January 30, 2017

TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY
(OVERBAY, LLC 2017 FACILITY)

Section 1. James M. Tullo, Deputy Director of the Town of Brookhaven Industrial Development Agency (the "**Agency**") called the hearing to order.

Section 2. James M. Tullo then appointed himself the hearing officer of the Agency, to record the minutes of the hearing.

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

Overbay, LLC, a limited liability company organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Overbay, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "**Company**"), has applied to the Agency for assistance in connection with (i) the acquisition of an approximately 1.84 acre parcel of land located at 217 West Broadway Port Jefferson, New York 11777 (the "**Land**"), (ii) the demolition of two (2) existing buildings, totaling approximately 15,000 square feet located thereon and the construction thereon of an approximately 54,000 square foot building, consisting of approximately 52 apartments, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the "**Improvements**"), and (iii) the acquisition and installation therein of certain equipment and personal property (the "**Equipment**"; and, together with the Land and the Improvements, the "**Facility**"), which Facility will be leased by the Agency to the Company, and used by the Company as a residential apartment building to be subleased to various residential tenants. The Facility will be initially owned, operated and/or managed by the Company.

The Agency will acquire a leasehold interest in the Land and the Improvements and title to the Equipment and lease the Facility to the Company. The Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from mortgage recording taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes in connection with the demolition, construction and equipping of the Facility and

exemption of real property taxes consistent with the policies of the Agency.

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

Sean Leister, Port Jefferson School District

See attached letter.

Section 5. The hearing officer then asked if there were any further comments, and, there being none, the hearing was closed at 10:30 a.m.

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

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

That I have compared the foregoing copy of the minutes of a public hearing held by the Town of Brookhaven Industrial Development Agency (the "**Agency**") on January 30, 2017, at 10:00 a.m., local time, at Port Jefferson Village Hall, 121 West Broadway, First Floor Conference Room, Port Jefferson, New York 11777, with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of the minutes in connection with such matter.

IN WITNESS WHEREOF, I have hereunto set my hand as of January 30, 2017.

Secretary

Town of Brookhaven

Industrial Development Agency

Public Hearing Results

PROJECT:	OVERBAY
DATE:	1-30-2017
TIME OPENED:	10:00 am
PRESENT:	Sean Leister
COMMENTS:	See Attached Letter Dated 1-30-17
TIME CLOSED:	10:30 am

PORT JEFFERSON SCHOOL DISTRICT
OFFICE OF THE SUPERINTENDENT OF SCHOOLS
550 SCRAGGY HILL ROAD
PORT JEFFERSON, NY 11777
PHONE (631)791-4221 FAX (631)476-4467

Paul Casciano, Ed.D.
Superintendent of Schools

BOARD OF EDUCATION
Kathleen Brennan, President
Mark Doyle, Vice-President
Ellen Boehm
Adam DeWitt
Robert Ramus
Vincent Ruggiero
Tracy Zamek

January 30, 2017

Lisa M. G. Mulligan, Chief Executive Officer
Industrial Development Agency
Town of Brookhaven
One Independence Hill
Farmingville, New York 11738

Dear Ms. Mulligan,

Thank you for allowing this opportunity for the Port Jefferson School District to express our views on the proposed project by Overbay, LLC. We are grateful for Overbay, LLC's interest in investing in the Port Jefferson community and we intend for this to become an amicable relationship.

We have several questions for the Agency:

> Has the IDA considered the adverse effect that granting a reduced PILOT will have upon the Port Jefferson School District? If the 55 unit project enrolls an estimated 5-10 students with the district, then the district will incur at least $121,000 - $240,000 in additional annual educational expense based upon the state established cost per student rate of $24,275. How will the estimated annual school tax offset this increase in expense to the school district?

The obvious concern for the District is that any reduction in property taxes represents a reduction in revenue for the District. This would not be as great an issue if the project did not generate additional expenses for the District through school –age children. This additional expense would have to be passed along to resident taxpayers. Our estimates are that the tax revenue proposed through this project represents only a quarter of the expense of educating one student at Port Jefferson.

Thank you for the opportunity to participate in this public hearing today.

Sincerely,

Paul Casciano, Ed.D.
Superintendent of Schools

EXHIBIT B-2

MINUTES OF PUBLIC HEARING HELD ON
JANUARY 10, 2018

TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY
(OVERBAY, LLC 2018 FACILITY)

Section 1. James M. Tullo, Deputy Director of the Town of Brookhaven Industrial Development Agency (the "**Agency**") called the hearing to order.

Section 2. James M. Tullo then appointed himself the hearing officer of the Agency, to record the minutes of the hearing.

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

> Overbay, LLC, a limited liability company organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of Overbay, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "**Company**"), has applied to the Agency for assistance in connection with (i) the construction on an approximately 1.84 acre parcel of land located at 217 West Broadway Port Jefferson, New York 11777 (the "**Land**"), of an approximately 54,000 square foot building, consisting of approximately 52 apartments, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the "**Improvements**"), and (ii) the acquisition and installation therein of certain equipment and personal property (the "**Equipment**"; and, together with the Land and the Improvements, the "**Facility**"), which Facility will be leased by the Company to the Agency and subleased by the Agency back to the Company, and used by the Company as a residential apartment building to be subleased to various residential tenants. The Facility will be initially owned, operated and/or managed by the Company.
>
> The Agency will acquire a leasehold interest in the Land and the Improvements and title to the Equipment and will sublease and lease the Facility to the Company. The Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from mortgage recording taxes in connection with the financing or any subsequent refinancing of the Facility, exemptions from sales and use taxes in connection with the demolition,

construction and equipping of the Facility and exemption of real property taxes consistent with the policies of the Agency.

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

Paul Casciano, Superintendent, Port Jefferson School District – see attached letter

Donald Pawluk, Sr., Representing Residents – Losing millions from powe (sic) plant. Village residents are paying for their tax break, we do not share profits, but bear the expense. This building is suppose (sic) to help. Village taxes. 15 years is a long time to wait for taxes.

Section 5. The hearing officer then asked if there were any further comments, and, there being none, the hearing was closed at 10:00 a.m.

PORT JEFFERSON SCHOOL DISTRICT

January 10, 2018

Lisa M. G. Mulligan, Chief Executive Officer
Industrial Development Agency
Town of Brookhaven
One Independence Hill
Farmingville, New York 11738

Dear Ms. Mulligan,

Thank you once again for allowing this opportunity for the Port Jefferson School District to express our views on the proposed project by Overbay, LLC. As we have stated in the past, we appreciate Overbay, LLC's interest in investing in the Port Jefferson Community and we wish them success in this endeavor. We are also grateful to the Brookhaven Industrial Agency for considering our concerns and offering a proposal that is more sensitive to the impact on the Port Jefferson School District.

The two elements of the proposal are years and taxes. As I have stated in the past, the impact on our school district is directly related to the number of students who will reside in the complex and our per pupil expenses to educate those children. The additional taxes represented in the Brookhaven IDA proposal is more sensitive to that concern. Our school district is grateful for that consideration.

Our concern is about the length of the proposal. The five additional years, fifteen in total, make the number of students and therefore the impact based on the number of students even less predictable. This, coupled with other financial factors that may be affecting our Village and school district before the year 2033, make the length of this proposal a subject of our concern.

Regardless of the final outcome, we appreciate the challenging work with which you are charged and we will make whatever you finally decide work for our students.

Thank you for the opportunity to participate in this public hearing today.

Sincerely,

Paul Casciano, Ed.D.

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

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

That I have compared the foregoing copy of the minutes of a public hearing held by the Town of Brookhaven Industrial Development Agency (the "**Agency**") on January 10, 2018, at 9:30 a.m., local time, at Port Jefferson Village Hall, 121 West Broadway, First Floor Conference Room, Port Jefferson, New York 11777, with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of the minutes in connection with such matter.

IN WITNESS WHEREOF, I have hereunto set my hand as of January 10, 2018.

Secretary

EXHIBIT C

Proposed PILOT Schedule

Schedule of payments-in-lieu-of-taxes: Village of Port Jefferson, Town of Brookhaven, (including any existing incorporated village and any village which may be incorporated after the date hereof, within which the Facility is wholly or partially located), Bayport-Blue Point School District, Suffolk County and Appropriate Special Districts

Tax Year	PILOT Payment Amount
2018/2019 (Construction)	Land Taxes Only
2019/2020 (Construction)	Land Taxes Only
2020/2021	$28,000.00
2021/2022	$39,144.00
2022/2023	$50,288.00
2023/2024	$61,432.00
2024/2025	$72,576.00
2025/2026	$83,720.00
2026/2027	$94,864.00
2027/2028	$106,008.00
2028/2029	$117,152.00
2029/2030	$128,296.00
2030/2031	$139,439.00
2031/2032	$150,583.00
2032/2033	$161,727.00
2033/2034	$172,871.00
2034/2035	$184,015.00

EXHIBIT D

SEQR Findings Statement

INCORPORATED
VILLAGE OF PORT JEFFERSON
88North Country Road
Port Jefferson, NY 11777
Tel. (631) 473-4744 Fax (631) 473-2049
www.portjeff.com

PLANNING BOARD

INC. VILLAGE OF PORT JEFFERSON PLANNING BOARD
RESOLUTION ADOPTING SEQR FINDINGS STATEMENT
JULY 10, 2014

Water's Edge Apartment Complex
(also referred to as Water's Edge Apartment Complex & General Offices Conditional Use & Site Plan Application or Water's Edge)
217 W. Broadway, Southeast corner of West Broadway & Brook Road
Zoning: C-1 and RB-2; Applicant: Overbay, LLC
SCTM: Sec. 11, Blk. 6, Lots 18, 19, 20, 21.1, 22.1, 23.1, 24.1 & 25
Application: 422-09MV (ZBA) & 177-10PS (PB)

WHEREAS, The Planning Board of the Inc. Village of Port Jefferson received an application dated January 22, 2010 from John Scoglio c/o Water's Edge Apartments for site development plan and conditional use approval and a Planning Board waiver; and

WHEREAS, the proposal ("the Project") included the demolition of an existing single-family residence and boat sales and service building, and redevelopment of the property with a three-story mixed-use building containing 52 residential rental units (42 one-bedroom and 10 two-bedroom units) at 28 units per acre plus 4,157 square feet of general office space and 92 parking spaces on the 1.84-acre site; and

WHEREAS, the Project requires the following permits and approvals from the Village: site plan and conditional use approvals, a building height variance from the Board of Zoning & Appeals, a Planning Board variance to construct an off-street stand-alone surface parking lot on the residentially-zoned portion of the property, and demolition permits.

WHEREAS, The Planning Board of the Inc. Village of Port Jefferson assumed SEQR Lead Agency for the Project; and

WHEREAS, The prior applicant abandoned the proposed action and transferred the application to the applicant Northwind Group/Demetrius Tsunis, and

WHEREAS, The Planning Board of the Inc. Village of Port Jefferson required the preparation of a DRAFT Environmental Impact Statement ("DEIS") to assess potential environmental impacts of the Project; and

WHEREAS, a DEIS was prepared by the Applicant and submitted to the Planning Board for a completeness review; and

INCORPORATED
VILLAGE OF PORT JEFFERSON
88North Country Road
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Tel. (631) 478-4744 Fax (631) 478-2049
www.portjeff.com

PLANNING BOARD

WHEREAS, the Planning Board received the first submission of the DEIS and deemed it inadequate on March 19, 2013; and

WHEREAS, the Planning Board received the second submission of the DEIS on August 30, 2013; and

WHEREAS, on October 1, 2013 the Planning Board accepted the DEIS as complete for commencing public review; and

WHEREAS, on October 30, 2013 the Planning Board held a duly noticed public hearing on the DEIS and the public hearing on the DEIS was closed and no site plan hearing was conducted; and

WHEREAS, the SEQRA public comment period concluded on November 8, 2013; and

WHEREAS, a Final Environmental Impact Statement (FEIS) was prepared to address Project revisions and respond to comments made at the SEQRA public hearing and submitted during the SEQR public comment period; and

WHEREAS, the FEIS presented revisions to the Project which includes the elimination of the general office space, elimination of parking in the RB2 zone thereby no longer requiring a waiver from the Planning Board, reduction of the building height thereby no longer requiring an area variance from the Board of Zoning and Appeals; and

WHEREAS, the FEIS presented revisions to the Project which includes 2 separate residential building on the 2nd and 3rd floor with ground floor parking in the C1 district and a ground floor community or recreation building to be used by residents, and a donation of the RB2 zoned land to the Village; and

WHEREAS, the FEIS indicated that the applicant changed to Overbay, LLC; and

WHEREAS, the Planning Board determined the FEIS to be complete and caused it to be filed on June 11, 2014; and

WHEREAS, the Planning Board has now prepared a SEQR Findings Statement for the Project that considers the relevant environmental impacts presented in the EIS, weighs and balances such impacts with social, economic and other essential considerations, provides a rationale for the Planning Board's decision and certifies that the SEQR requirements have been met.

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PLANNING BOARD

NOW, THERFORE, BE IT RESOVED that the Incorporated Village of Port Jefferson hereby adopts the July 10, 2014 SEQR Findings Statement and authorizes the Planning Board Chairman to file and distribute the Findings Statement in accordance with requirements of SEQR.

On a motion by B. Sabatini seconded by G. Anderson the foregoing resolution was adopted on a vote of 3 in favor, 0 opposed and 1 abstentions.

Dated: Port Jefferson, New York
7/14/14

RAY DI BIASE, CHAIRMAN

State Environmental Quality Review
Statement of Findings

WATER'S EDGE
VARIANCE, CONDITIONAL USE AND SITE PLAN APPLICATION

Environmental Impact Statement

July 10, 2014

Pursuant to Article 8 of the New York State (NYS) Environmental Quality Review Act (SEQRA) of the New York State Environmental Conservation Law and Title 6 of the NYS Code of Rules and Regulations (6 NYCRR) Part 617, the Planning Board of the Incorporated Village of Port Jefferson makes the following findings.

Name of Action:	Water's Edge Variance, Conditional Use and Site Plan Application
SEQRA Classification:	Type I Action
Village File Number:	422-09MV (Zoning Board of Appeals) & 177-10PS (Planning Board)
Location:	The project site is located at the southeast corner of the intersection of West Broadway & Brook Road, at 217 West Broadway
SCTM No.:	Section 11; Block 6, Lots 18, 19, 20, 21.1, 22.1, 23.1, 24.1 & 25
Lead Agency:	The Planning Board of the Incorporated Village of Port Jefferson 88 North Country Road Port Jefferson, New York 11777
Applicant:	Overbay, LLC 1 Rabbro Drive, Suite 100 Hauppauge, N.Y. 11788 Principal: Jim Tsunis (631) 582-8300
Lead Agency Contact:	Cynthia Suarez, Planning Board Secretary Village of Port Jefferson 88 North Country Road Port Jefferson, New York 11777 (631) 473-4744
Final EIS Date Filed:	June 12, 2014

1.0 INTRODUCTION

This SEQRA Findings Statement has been prepared by the Lead Agency in accordance with Article 8 of New York State's Environmental Conservation Law, which codifies the State Environmental Quality Review Act (SEQRA) and the implementing regulations contained in 6 NYCRR Part 617 (SEQR).

1.1 Location and Existing Conditions

The subject property is located at 217 West Broadway, Port Jefferson, Town of Brookhaven, Suffolk County, New York and consists of a 1.84-acre site, identified by the Suffolk County Real Property Tax Service Agency as situated in the Town of Brookhaven, District 0206, Section 11, Block 06, consisting of Lots 18, 19, 20, 21.1, 22.1, 23.1, 24.1, and 25. Lot 18 is currently zoned for Single-Family Residential uses (R-B2); and Lots 19, 20, 21.1, 22.1, 23.1, 24.1, and 25 are zoned for Central Commercial uses (C-1).

The existing site is currently vacant, up until recently operating as a boat sales, repair, and maintenance facility, including a two-story residential building, one-story commercial building, and boat storage yard. The site is bordered by West Broadway to the north, Brook Road to the west, a former hotel property to the east (under a separate SEQR review for a proposed multi-family housing), and Mill Creek on the southeast, and Village-owned ball field on the south.

1.2 History of the Applicant's SEQR Review through the Submission of the FEIS

A. Part 1 of the Environmental Assessment Form (EAF) was prepared on behalf of the applicant by Nelson, Pope & Voorhis, LLC, (NPV). The EAF was submitted to the Lead Agency on March 25, 2010. The

Proposed Project includes the demolition of existing site improvements, and the redevelopment of the site with a 32,000 square foot (SF) three-story mixed use structure, containing: a grade-level parking garage and commercial office space, and 52 rental residential units. The Proposed Project is also planned to include associated access roads, sidewalks, parking lots, landscaped areas, natural areas, and an undeveloped wetland buffer zone along Mill Creek.

B. The applicant submitted the zoning variance, conditional use approval, and site plan application to the Lead Agency on April 6, 2010.

C. On July 29, 2010, the Planning Board of the Village of Port Jefferson, as the Lead Agency, determined the Proposed Project to be a SEQRA Type 1 Action, and adopted a Declaration of Significance, requiring the completion of an Environmental Impact Statement (EIS).

D. A Public Scoping Hearing was duly advertised, and subsequently held on September 30, 2010.

E. The Lead Agency also prepared and posted for review, the "Water's Edge Apartment Complex and General Office SEQRA Scoping Document," prepared on behalf of the applicant by Dvirka and Bartilucci, Consulting Engineers, dated September 2010.

F. A Final Scoping Document, dated April 2012, was subsequently prepared by the Lead Agency.

G. The successor applicant, The Northwind Group, submitted a Draft EIS (DEIS), dated November 2012, prepared by NPV. The Proposed Project was revised from the original application, proposing that the 52

residential units be comprised of 42 "affordable" one-bedroom units and 10 two-bedroom units.

H. On March 19, 2013, the Lead Agency determined the DEIS to be inadequate, through the review by its consultant, Cashin Associates, P.C.

I. The applicant submitted a revision to the November 2012 DEIS on August 30, 2013. The revised Proposed Project included the demolition of existing conditions, and the redevelopment of the site with a three-story mixed use structure, containing ground-floor level parking and commercial office spaces, 52 rental units (including 42 "affordable" one-bedroom units and 10 two-bedroom units), and site conditions similar to those proposed November 2012 DEIS.

J. The Lead Agency determined the DEIS to be adequate, in terms of its scope and contents, and accepted the DEIS on October 1, 2013. However, it was noted by the Lead Agency that the acceptance of the DEIS for public review was not an acceptance of the applicant's technical conclusions, environmental impact analyses, and proposed mitigation practices. This was supported by the September 27, 2013 report by the Lead Agency's consultant, which detailed its technical assessment, and included comments and questions required to be addressed in the Final EIS (FEIS).

K. The Public Hearing for the DEIS was held on October 30, 2013.

L. The Lead Agency accepted written public and involved agency comments through November 8, 2013; providing copies of these comments and a certified copy of the transcript of the comments made during the October 30 Public Hearing to the Applicant for the FEIS.

M. The applicant, identified as Overbay, LLC (Applicant), submitted its Final EIS (FEIS) in March, 2014, which included responses to the October 2013 comments received by the Lead Agency's consultant, involved agencies, written public comments, and public comments presented during the October 30, 2013 DEIS Public Hearing.

N. After the initial review, the FEIS was filed on June 11, 2014.

1.3 **The SEQR Findings Statement**

This Findings Statement is in accordance with the requirements of 6 NYCRR Part 617; specifically pursuant § 617.11(d) by:

A. Considering the relevant environmental impacts, facts and conclusions based on the FEIS;

B. Weighing and balancing relevant environmental impacts, facts and conclusions disclosed in the FEIS;

C. Providing a rationale for the Lead Agency's decision;

D. Certifying that the requirements of SEQR have been met; and

E. Certifying that consistent with social, economic, and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable by incorporating as conditions to the decision those mitigation measures that were identified as practicable.

1.4 Contents of the FEIS

The Applicant's revised Proposed Project contained in the FEIS was presented in response to the adverse environmental impacts contained in the October 2013 DEIS based on the Lead Agency comments, involved agency comments, and public comments. The Applicant's FEIS proposed a revised Proposed Project, identified as the "Revised Plan" (FEIS Revised Plan), which is based on Alternative 2 contained in the October 2013 DEIS.

The former Proposed Project, as contained in the DEIS accepted on October 1, 2013 (DEIS Proposed Project), included the redevelopment of the property with a single 38-foot high three-story mixed-use building containing 52 residential rental units (42 one-bedroom and 10 two-bedroom units) and 4,157 square feet of commercial office space. The 42 one-bedroom apartments were proposed to be "affordable" dwelling units. The ground floor was designed to accommodate parking and the proposed commercial office space, while the second and third floors would contain 26 dwelling units each. The site is designed to include a parking lot along the east side of the building, and a parking lot on the south side.

The DEIS Proposed Project required: i) a conditional use request; ii) a variance request for commercial-related parking in a residential zoning district, for the south parking lot; iii) a variance request to permit the construction of the proposed 38-foot three-story building in the C-1 zoned portion of the site (maximum of 35 feet permitted); and iv) site plan review.

The FEIS Revised Plan proposes to change the proposed development in response to the comments by the Lead Agency, involved agencies and the public, with significant changes in the project development based on Alternative 2 of the

DEIS. A summary of these changes is presented below; with those proposed changes which are different from the DEIS Proposed Project and Alternative 2 of the DEIS highlighted in the description below as a "**Significant Change.**"

A. FEIS Revised Plan includes the demolition of the existing improvements, and redevelopment of the property with two 35-foot high three-story residential-use buildings (**Significant Change**). The proposed two separate buildings share the open ground-floor level parking garage and community center (**Significant Change**), with the second and third floors of the structures separated by a courtyard over the parking garage and community center (**Significant Change**).

B. The buildings contain a total of 52 residential rental units, with the mixture of unit types changed from the DEIS Proposed Project to include 10 one-bedroom and 46 two-bedroom units. The six of the ten one-bedroom apartments are proposed to be "affordable" dwelling units (**Significant Change**).

C. The ground-floor commercial office space is eliminated in the Revised Plan. The Revised Plan eliminates the DEIS Proposed Project's parking lot along the east side; and offers to dedicate the south parking lot to the Village for use by attendees of the Village's ball fields, adjacent to the south of the site. These elements of the Revised Plan were contemplated in Alternative 2 of the DEIS, and based on comments received from the Lead Agency.

D. The Revised Plan will eliminate the need for variance approvals relating to the building height and south parking lot, only requiring Planning

Board approval relating to: i) a conditional use request; and ii) site plan review.

E. The Applicant's FEIS also included the following more detailed list of changes (see FEIS Section 1.3.1, page 1-4):

"The following lists the changes to the proposed project that describe the Revised Plan:

- *the ground floor office component has been removed, but the number of apartments (52) has been maintained (all units will continue to be above-grade);*
- *the floor spaces of the residences has changed, so that all one-bedroom units are 850 SF and all two-bedroom units are 1,100 SF in size;*
- *the numbers of one- and two-bedroom units has changed, from 42 and 10, to 6 and 46, respectively;*
- *the number of affordable units has changed, from 42 to 6;*
- *the numbers of residents and school-age children has changed, from 95 and 6, to 118 and 12, respectively;*
- *costs to the school district for the school-age children generated is increased while school taxes would be slightly reduced, so that the Revised Plan would result in a net fiscal deficit to the school district* **[Significant Change]**;
- *the amount of water used in the residences, as well as the volume of wastewater generated, would be reduced, from 11,850 gpd to 11,700 gpd;*
- *removal of a commercial component reduces the minimum number of parking spaces required, from 92 to 78;*
- *all parking will now be located at-grade, beneath the proposed structures;*
- *use of the R-B2 zoned portion of the site for commercial space-related parking is no longer contemplated; this area will be made available as a dedication from the developer to the Village for parking in connection with the nearby Village ball fields. In this way, a variance for commercial parking in a residential zone is no longer needed.*
- *the single structure has been divided into two separate buildings connected by a roof over the parking area beneath both structures, eliminating the elevated terrace and enabling the site to be reconfigured with a more open design with a landscaped ground-level courtyard, to increase open space along West Broadway;*
- *the structure has been lowered in height to a maximum of 35 feet, meeting the Village's building height restriction and eliminating the need for a building height variance;*
- *the amount of clearing has been reduced, from 1.68 acres to 1.45 acres;*

- *the setback from the wetlands line has been increased, from 15 feet to 25 feet, enabling 0.19 acres of appropriate wetland revegetation in this area;*
- *provision for a driveway cross access to the property to the east has been added* **[Significant Change]**;
- *the right-turn only vehicle entrance from eastbound West Broadway will be used only until such time as cross access to the property to the east is installed, at that time this access will be removed;*
- *provision for a driveway cross access to the public parking area to the south has been added; and*
- *the vehicle access from Brook Road has been shifted northward to a location more nearly opposite Boulder Drive (a paper road)."*

F. Additionally, the Applicant's FEIS includes a site layout comparison table (FEIS, Table 1-1), providing a comparison of existing conditions, the DEIS Proposed Project conditions, and the Revised Plan conditions.

2.0 FINDINGS OF RELEVANT IMPACTS AND MITIGATIONS

2.1 Geology, Soils, Topography, and Environmental Impacts by Past Uses

2.1.1 Geology, Soils and Topography

The subject site, located approximately 500 feet south of Port Jefferson Harbor, on Long Island Sound, is situated on a thick sequence of recently reworked glacial deposits, containing the Upper Glacial Aquifer (unconfined); overlying multiple sequences of Cretaceous-age sedimentary deposits of clays, sands, and gravels, containing, in order of depth, the Magothy Aquifer and the Lloyd Aquifer (separated by low-impermeability sediments); overlying metamorphic bedrock, at a depth of approximately 800 feet beneath the surface.

The site is reported to be relatively flat-lying ranging in elevation from 14 feet above sea level (asl) at the northwest corner of the property, across the site, dissected at the southeastern corner by the current course of Mill Creek, with a creek-bed elevation of six feet above sea level.

The DEIS subsurface surveys identified the site as a filled-in tidal marshland, consisting of "Urban Fill" defined as materials that include a mixture of sands, gravels and other materials, imported to the site, most likely for purposes of increasing the elevation and leveling parcels for lots, buildings and pavement. The Urban Fill soils reportedly cover sequences of natural sands, peat, and clays (representing the former marshland depositional environment) at depths of four to nine feet beneath the surface.

The naturally-occurring peat and clay layers were reportedly found to be discontinuous across the site. Perched water was described as found by the Applicant in the DEIS and the FEIS, generally within the low-permeability peat and clay layers. Section 2.6 of the FEIS reports that there is a thick sequence of "well-drained sands" located approximately five to 10 feet bgs.

2.1.2 Environmental Impacts from Historical Activities

The studies discussed in the Draft EIS, including the Phase I and II Environmental Site Assessments (ESAs), the Limited Phase II ESA, the Supplemental Limited Phase II ESA, the Horton Sphere study, the Lawrence Aviation Industries (LAI) Plume Study, and the proposed Subslab Depressurization System (SSDS) combine to indicate that, the site had historically been used for boat repair and maintenance activities resulting in low level concentrations of semi-volatile organic compounds (SVOC's) and [other compounds], and that the site is down gradient of the LAI plume which is beneath much of the Village including the downtown area.

The applicant is waiting on NYSDEC direction on the need to remediate soil contamination on the subject site associated with the adjacent Horton Sphere property. As of the date of the Final EIS, no response has been received. Any guidance the NYSDEC should have regarding any remedial activities at the subject property associated with contaminated soils will be followed according to all applicable agency protocols and reporting requirements.

Though found to be present, such contaminants do not represent a significant level of risk to any site receptors, particularly given proposed mitigation.

2.1.3 Findings

1. The Lead Agency finds that the Revised Plan will reduce the amount of clearing and grading required compared to the plan described and analyzed in the Draft EIS.
2. First floor ventilation and SSDS will be used ot mange soil vapors due to the LAI plume. SCDHS will review soil vapor mitigation as part of the sanitary and water supply connection review.
3. The revised plan will be subject to review and approval of the Village during the Site Plan application, ensuring that no impacts to geologic resources will occur. Through this process the Applicant shall demonstrate, to the satisfaction of the Lead Agency, the following:
   a. Demonstrate that all potential adverse environmental conditions associated with the chemical contaminants identified in the FEIS and DEIS as associated with the current site development have

been identified, removed from the property, and disposed of properly;

b. Address the currently uncontrolled stormwater runoff identified in the FEIS, as part of the development of the site according to the Revised Plan;

c. Characterize and address asbestos-containing materials, petroleum related materials, and other hazardous materials associated with existing structures and systems as part of the development of the site according to the Revised Plan;

d. Address potential adverse environmental impacts to the site, the groundwater and Mill Creek by past on-site operations and the LAI Superfund Site as part of the development of the site according to the Revised Plan;

e. Address the requirements of any regulatory laws, including but not limited to those by the NYSDEC, NYS Department of Health, SCDHS, and any other regulatory body having jurisdiction over environmental conditions, public health conditions, worker health and safety conditions, hazardous materials, or hazardous wastes, as part of the development of the site according to the Revised Plan; and

f. Address any required engineering controls, SSDS design and O&M plans, and institutional control plans.

2.1.4 Conclusion

Based on the information provided in the DEIS and FEIS, and representations made by the Applicant in the FEIS, the findings of this

environmental review, and the completion of all procedures and measures described above, to the satisfaction of the Lead Agency, the Lead Agency finds that there are no adverse environmental impacts expected from the Proposed Action as contained in the FEIS Revised Plan.

2.2 Groundwater Water Resources

The subject property, as with the rest of Long Island, overlies a groundwater system designated as a sole source aquifer by the Environmental Protection Agency (USEPA) pursuant to the federal Safe Drinking Water Quality Act (SDWA). The local groundwater table aquifer, the Upper Glacial Aquifer, was described in Section 2.3.1 of the DEIS as located between two feet and five feet below ground surface (bgs), and also described as located between 5 to 10 feet asl. The regional groundwater flow pattern is to the north, toward Port Jefferson Harbor and Long Island Sound; but also is described in the DEIS as locally feeding Mill Creek, and the seeps in the surrounding area.

2.2.1 Environmental Impacts to Water Resources from the Proposed Project

The building is designed without a basement or cellar but instead would be constructed on a concrete slab. The Lead Agency's review of the DEIS noted that based on groundwater table elevations, the floor of a full basement or cellar would extend below the underlying water table.

2.2.2 Findings

1. As noted in the FEIS, the shallow groundwater table is known to be contaminated with VOCs. The March 2010 letter by the USEPA to the Village states that health risks associated with VOC migration from the LIA contaminated groundwater plume into buildings are

minimal. The Revised Plan eliminates the location of office spaces on the first floor, and residences are designed to be located above an open air parking garage, thus providing full ventilation between the ground surface and residential units. However, the ground-level community center will be protected with a sub-slab depressurization system (SSDS), installed during building construction.

2. The Applicant plans to monitor for vapor intrusion on a regular basis and operate the SSDS system according to a site-specific Operations and Maintenance Plan, to be reviewed and approved by the NYSDEC and NYS Department of Health, as part of the site plan approval process. The Operations Manual policies and procedures, including the sampling procedures, will be part of the covenants and restrictions for the property, recorded as an Environmental Easement on the property with the Suffolk County Clerk.
3. The revised plan will be subject to review and approval of the Village during the Site Plan application, ensuring that no impacts to water resources will occur. Through this process the Applicant shall demonstrate, to the satisfaction of the Lead Agency, the following:
    a. That the drainage design adequately addresses stormwater run-off, and related impacts to the groundwater, will be effectively controlled on the site.
    b. That the building is designed to comply with the NYS Fire Safety Code and FEMA Flood Plain elevation requirements.

2.2.3 Conclusion

Based on the information provided in the DEIS and FEIS, and representations made by the Applicant in the FEIS, the findings of this environmental review, and the completion of all procedures and measures described above, to the satisfaction of the Lead Agency, the Lead Agency finds that there are no adverse environmental impacts expected from the Proposed Action as contained in the FEIS Revised Plan.

2.3 Surface Water and Wetland Conditions

The presence of Mill Creek on and adjacent to the site, freshwater wetlands adjacent to the site, shallow depth to groundwater beneath the site with evidence of groundwater seeps and drainage issues along Brook Road, and a FEMA Special Flood Hazard Area (100-year floodplain with base elevation of 8 feet) affecting the property are suggestive of complex hydrologic conditions and site environmental sensitivity. The NYSDEC and has confirmed that the DEC will require a minimum 15-foot setback/buffer from the top of the bank of Mill creek including that section on the subject site and a 20-foot setback from the freshwater wetlands located along the southwestern corner of the property.

2.3.1 Environmental Impacts to Surface Water Resources from the Proposed Project

As stated in Section 2.2 of the FEIS: "the site has been used as a boat storage facility for many years, and is not pristine. Boat racks, boat storage, maintenance have historically occurred on unstabilized sandy soils, resulting in runoff to Mill Creek and transport of pollutants."

2.3.2 Findings

1. The ecological impacts of the Revised Plan would be less than the corresponding impacts of the plan described and analyzed in the Draft EIS.
2. The Revised Plan considers the sensitive resources of the site. The amount of clearing has been reduced from 1.68 acres, as per the proposed development contained in the DEIS, to 1.45 acres proposed in the FEIS. The proposed project wetland buffer is set back farther from the NYSDEC designated wetlands, from 15 feet (as proposed in the DEIS) to 25 feet, enabling 0.19 acres of appropriate wetland revegetation in this area.
3. The FEIS proposes to remove invasive species via an aggressive mechanical removal program. Plants cut from the surface will collected and staged, with the remaining root systems removed by backhoe. The plants will be carted to an approved landfill. Native species will then be planted in the affected areas. Monitoring and removal of invasive species re-growth will occur over three growing seasons to ensure success of native species establishment.
4. The Applicant shall also implement a number of erosion and sedimentation control techniques prior to and during site preparation and invasive species removal program to prevent adverse impacts to site drainage patterns and Mill Creek, as part of the site application approval process, and according to the conditions specified above in Section 2.1.3.

5. The revised plan will be subject to review and approval of the Village during the Site Plan application, ensuring that no impacts to surface water and wetland conditions will occur. Through this process the Applicant shall demonstrate, to the satisfaction of the Lead Agency, the following:

   a. That the Revised Plan is designed and constructed to eliminate the stormwater overflow to Mill Creek and to Brook Road. This will be an improvement over existing site conditions.

   b. The applicant will obtain an Article 24 Permit from NYSDEC for any activity within 100 feet of the pond which is a designated wetland.

   c. That the Revised Plan results in the restoration of the stream and wetland buffer where no buffer currently exists.

2.3.3 Conclusion

Based on the information provided in the DEIS and FEIS, and representations made by the Applicant in the FEIS, the findings of this environmental review, and the completion of all procedures and measures described above, to the satisfaction of the Lead Agency, the Lead Agency finds that there are no adverse environmental impacts expected from the Proposed Action as contained in the FEIS Revised Plan.

2.4 Water Usage Conditions

The Magothy and Upper Glacial Aquifers are hundreds of feet thick and contain an enormous supply of potable and readily retrievable groundwater. SCWA wells are dug in deep recharge areas rather than coastal areas to avoid potential for salt water intrusion from overdrafting. Annual precipitation is

approximately 48 inches per year and approximately 24 inches of this precipitation is recharged to the underlying aquifers. There are no municipal sewage treatment facilities in the area that would collect and discharge wastewater off-shore, and reduce recharge and available groundwater supplies. Therefore, all water that is withdrawn from the underlying aquifers, with the exception of that portion of the water used in irrigation that evaporates or which is transpired by plants, is recharged into the ground, thereby replenishing the groundwater supply.

2.4.1 Environmental Impacts to the Public Water Supply from the Proposed Project

The FEIS Revised Plan proposes to utilize the public water supply for domestic water and irrigation. The SCWA water mains are located along Brook Road and West Broadway. The proposed project will connect to the Brook Road main. The FEIS states that the proposed project is estimated to use a total of approximately 12,248 GPD of potable water; approximately 548 GPD estimated for irrigation and approximately 11,700 GPD for sanitary uses. The projected 12,248 GPD represents an extremely small portion of the groundwater available in the local aquifer system.

2.4.2 Findings

1. The site will receive its water supply from the SCWA. The Applicant shall install plumbing fixtures in new structures that conserve water. Native and well adapted ornamental plant species shall be used in landscaping to reduce irrigation demand.
2. As directed by the SCWA, ductile iron pipe will be used for the construction of the potable water supply to the buildings, to mitigate

against the potential for any contaminants in soils infiltrating other pipe materials, such as poly-vinyl chloride (PVC) piping, which would otherwise be used for other development sites.

2.4.3 Conclusion

Based on the information provided in the DEIS and FEIS, and representations made by the Applicant in the FEIS, the findings of this environmental review, and the completion of all procedures and measures described above, to the satisfaction of the Lead Agency, the Lead Agency finds that there are no adverse environmental impacts expected from the Proposed Action as contained in the FEIS Revised Plan.

2.5 Sewage Disposal

As previously stated, the property is within Suffolk County Health Department's Groundwater Management Zone III. This classification relates to Article 6 of the Suffolk County Sanitary Code, applicable to realty subdivisions, site development and construction projects, to limit the loading of nitrogen into the aquifer.

2.5.1 Environmental Impacts to Sewage Disposal from the Proposed Project

The proposed development will connect to existing sanitary system located beneath West Broadway. As Stated in Section 1.3.6 of the FEIS:

> "On December 17, 2012, the project received Conceptual Certification from the Suffolk County Sewer Agency (SCSA) for connection to SCSD #1 (see Appendix I). It is expected that this connection will be to the existing 8-inch diameter main beneath West Broadway. As noted above, it is expected that the project will generate 11,700 gpd of wastewater. This volume will be conveyed to the SCSD #1 STP, located to the north, on Beach Street. Reference to the Suffolk County website on August 22, 2013 indicates that the STP that serves SCSD #1 is designed to handle 1.150 million gallons of wastewater daily (MGD); as of

> September 2012, this facility receives only 0.800 MGD, and so has sufficient capacity available to accommodate the proposed project. This facility is owned and operated by Suffolk County; final approval of the SCSA, as well as approvals from the Suffolk County Department of Public Works (SCDPW) and NYSDEC will be necessary."

Therefore, upon receipt of the final certification from the SCSA, and successful connection to the existing eight-inch main beneath West Broadway, no adverse environmental impacts to the sanitary sewer system by the Proposed Project is expected.

2.5.2 Findings

1. The revised plan will be subject to review and approval of the Village during the Site Plan application, ensuring that no impacts to sewage disposal will occur. Through this process the Applicant shall demonstrate, to the satisfaction of the Lead Agency, the following:
    a. The Applicant shall obtain the required certification from the SCSA, and make the successful connection of the site to the existing eight-inch main beneath West Broadway for all sanitary wastes.

2.5.3 Conclusion

Based on the information provided in the DEIS and FEIS, and representations made by the Applicant in the FEIS, the findings of this environmental review, and the completion of all procedures and measures described above, to the satisfaction of the Lead Agency, the Lead Agency finds that there are no adverse environmental impacts expected from the Proposed Action as contained in the FEIS Revised Plan.

2.6 Stormwater Runoff Conditions

The subject site is generally level, with slopes less than 10%. The site has been filled and used for boat storage and maintenance in the past. The soils are generally loose, subject to stormwater runoff, resulting in long-term sediment and pollutant transport to Mill Creek. There are discharges and gullies on the site that contribute directly to Mill Creek. Stormwater also runs off the property, on to Brook Road. This road is also impacted by springs that establish the Pond and headwaters of Mill.

2.6.1 Environmental Impacts to Stormwater Runoff from the Proposed Project

The boat facility buildings, gravel parking area, and boat storage area will be removed, and subject to regarding as part of the proposed redevelopment. Elevation adjustments will be made by balancing site cut and fill, to establish proper drainage.

As stated in Section 3.22 of the FEIS, contaminated soils will be remediated and removed from the site for disposal at an appropriate facility, prior to the site construction activities. The FEIS also stated that the areas of excavation will be protected by silt fencing, and subsequently filled with imported clean fill material. It was also stated in the FEIS that no adverse impacts were expected to occur to Mill Creek as part of this operation.

The FEIS stated that the Revised Plan site development will be designed and constructed to eliminate the stormwater overflow to Mill Creek and to Brook, which will be an improvement over existing conditions.

2.6.2 Findings

1. Applicant states in both the DEIS and Proposed Plan and the FEIS Revised Plan that the site stormwater drainage system shall be designed to ensure that no stormwater overflow from the drainage systems enter into Mill Creek or Brook Road. The flooding problem on Brook Road would be addressed in this scenario, as a Storm Water Pollution Prevention Plan (SWPPP) would be prepared for the Revised Plan. The Revised Plan furthers the conformance with the Mill Creek Watershed Management Plan (MCWMP).
2. The Applicant's FEIS Revised Plan proposes the use of one-foot and two-foot deep pre-cast concrete leaching galleys to collect the runoff, stated to be a typical application for stormwater infiltration to a shallow groundwater table. The Applicant proposes 181 two-foot leaching galleys located beneath the first floor slab to collect the runoff from the building roofs, and 100 one-foot high chambers to collect runoff from the site landscaping, for infiltration to the shallow groundwater table. The Revised Plan also proposes to remove poorly-drained soils within the leaching galleys, to hydraulically connect to the naturally occurring sandy soils, stated to be located within five to ten feet below the surface, based on soil borings.
3. The revised plan will be subject to review and approval of the Village during the Site Plan application, ensuring that no impacts to stormwater runoff conditions will occur. Through this process the Applicant shall demonstrate, to the satisfaction of the Lead Agency, the following:

a. That all drainage and SWPPP requirements are met.

b. That in conformance with an Erosion Control Plan and Stormwater Control Plan shall be reviewed and approved by the Lead Agency and the NYSDEC prior to, and post, construction. All erosion and sedimentation controls shall be implemented to prevent erosion, retain soils on-site and prevent siltation of drainage structures, and impacts to the wetlands and Mill Creek.

2.6.3 Conclusion

Based on the information provided in the DEIS and FEIS, and representations made by the Applicant in the FEIS, the findings of this environmental review, and the completion of all procedures and measures described above, to the satisfaction of the Lead Agency, the Lead Agency finds that there are no adverse environmental impacts expected from the Proposed Action as contained in the FEIS Revised Plan.

2.7 Site Ecology

Mill Creek, a coastal plain stream, with associated freshwater wetlands is part of a complex, sensitive, and potentially biologically diverse and productive hydrologic system involving groundwater, freshwater wetlands, a freshwater/tidal creek, and Port Jefferson Harbor. However, the general area, which includes the subject site, has been compromised by commercial uses, and the establishment of some invasive species. The area which includes the subject site has also been affected by pollution from past intensive commercial uses. The Village, through its Mill Creek Watershed Management Plan, and the NYSDEC,

through its regulatory powers, seeks to restore, preserve, and protect this sensitive environment.

2.7.1 Environmental Impacts to Water Resources from the Proposed Project

The ecological habitats present on subject site have severely deteriorated over time due to the on-site disturbance by commercial activities and the encroachment on the natural habitats by invasive species.

2.7.2 Findings

1. The FEIS Revised Plan proposes to mitigate existing conditions with a proposal to remove invasive species, and to restore native species to the undeveloped portions of the proposed development, in a wetland buffer zone to restore the freshwater wetlands and natural areas along Mill Creek. Although the amount of naturally vegetated area, 0.23 acres, under the Revised Plan, is less that the 0.31 acres under the proposed plan in the DEIS, the reduction is due to the dedication or donation of the south parking lot to the Village ball field (possessing natural vegetation) under the Revised Plan.
2. The revised plan will be subject to review and approval of the Village during the Site Plan application, ensuring that no impacts to site ecology will occur. Through this process the Applicant shall demonstrate, to the satisfaction of the Lead Agency, the following:
    a. The Applicant shall adequately characterize the soils and sediments prior to the invasive species removal process, and wetland restoration operations.
    b. The Applicant shall identify and implement proper erosion and sedimentation control procedures prior to and during site

preparation and invasive species removal program to prevent adverse impacts to site drainage patterns and Mill Creek, as part of the site application approval process.

2.7.3 Conclusion

Based on the information provided in the DEIS and FEIS, and representations made by the Applicant in the FEIS, the findings of this environmental review, and the completion of all procedures and measures described above, to the satisfaction of the Lead Agency, the Lead Agency finds that there are no adverse environmental impacts expected from the Proposed Action as contained in the FEIS Revised Plan.

2.8 Land Use and Zoning

As stated above in Section 1.4, the DEIS Proposed Project included the redevelopment of the property with a single 38-foot high three-story mixed-use building containing 52 residential rental units (42 one-bedroom and 10 two-bedroom units) and 4,157 square feet of commercial office space. The 42 one-bedroom apartments were proposed to be "affordable" dwelling units. The ground floor was designed to accommodate parking and the proposed commercial office space, while the second and third floors would contain 26 dwelling units each. The DEIS Proposed Project's conceptual design included a parking lot along the east side of the building, and a parking lot on the south side.

2.8.1 Zoning Impacts Relating to the Proposed Project

The DEIS Proposed Project required: i) a conditional use request; ii) a variance request for commercial-related parking in a residential zoning district, for the south parking lot; iii) a variance request to permit the construction of the proposed 38-foot three-story building in the C-1 zoned portion of the site

(maximum of 35 feet permitted); and iv) site plan review. The project as proposed required a building height variance of 38 feet where the maximum permitted height in the C-1 and all other zoning districts in the Village is 35 feet,[1] and a variance to construct an off-street stand-alone surface parking lot on the single-family residentially-zoned portion of the property. The height of the building in conjunction with the number of dwelling units proposed, proximity to wetlands and the creek, and plans to construct a retaining wall six feet or higher were the primary reasons why the project was designated as a Type I action leading to the request for the submission of an environmental impact statement.

The Suffolk County Planning Commission indicated in its November 4, 2009 letter to the Village that it believed the DEIS Proposed Project failed to meet several criteria for the issuance of a height variance because: 1) the benefit sought can be achieved by other feasible means; 2) an undesirable change in the neighborhood character or to nearby properties will occur as a result of the grant of such variance; 3) the request for relief is substantial; 4) the request will have adverse physical or environmental effects; and 5) the alleged difficulty from which relief is being sought is self-created. The Planning Commission further noted that granting of the height variance would allow an unwarranted over-intensification of the use of the property and would establish a precedent that would tend to substantially undermine the effectiveness of the zoning ordinance. For the above reasons, the Planning Commission voted to disapprove the project.

[1] The Village Code defines height for a roof similar to what is proposed as the vertical distance from the

2.8.2 Findings

1. As a result of the plan revisions, the land use, zoning and plan-related impacts of the Revised Plan would be less than those of the plan described and analyzed in the Draft EIS.
2. The proposed project, as described in the FEIS, has been designed to conform to zoning in terms of height and setbacks as well as the conditional use.
3. The Revised Plan will eliminate the need for variance approvals relating to the Proposed Plan's building height and south parking lot, only requiring the Planning Board approval relating to: i) a conditional use request; and ii) site plan review.
4. The Applicant's Revised Plan contained in the FEIS was reportedly presented as the preferred proposal over the DEIS Proposed Project in response to the concerns expressed by the Lead Agency, involved agencies and the public relating to adverse environmental impacts relating to the former plan.
    a. Section 1.4 of this Findings Statement includes a summary of the proposed development changes, with those proposed changes which are different from the DEIS Proposed Project and Alternative 2 of the DEIS are highlighted in the description below as "Significant Change." The proposed FEIS Revised Plan included the redevelopment of the property with two 35-foot high three-story residential-use buildings (**Significant Change**).

mean average finished grade at the front of the building to the mean height between eave and ridge.

b. The proposed two separate buildings share the open ground-floor level parking garage and community center **(Significant Change)**, with the second and third floors of the structures separated by a courtyard over the parking garage and community center **(Significant Change)**.

c. The buildings contain a total of 52 residential rental units, with the mixture of unit types changed from the DEIS Proposed Project to include 10 one-bedroom and 46 two-bedroom units. The six of the ten one-bedroom apartments are proposed to be "affordable" dwelling units **(Significant Change)**.

d. The ground-floor commercial office space is eliminated in the Revised Plan.

5. The offering of the FEIS Revised Plan as the preferred site development addressed many of the concerns expressed by the Lead Agency, involved agencies and the public. The FEIS addressed the relevant public comments received during the DEIS public hearing, and written comments received as part of the DEIS review process. However, as indicated in Section 1.4 of this Findings Statement, there are significant changes proposed in the Revised Plan which were not subjected to public review and comment. The Lead Agency posted the FEIS on June 11, 2014, which is accessible for public review. The SEQR process also allows for a 30-day period after the filing of the FEIS for comments by involved agencies.

2.8.3 Conclusion

Based on the information provided in the DEIS and FEIS, and representations made by the Applicant in the FEIS, the findings of this environmental review, and the

completion of all procedures and measures described above, to the satisfaction of the Lead Agency, the Lead Agency finds that there are no adverse environmental impacts expected from the Proposed Action as contained in the FEIS Revised Plan.

2.9 Community Facilities and Services: Fire Protection

The subject property is located within one-half mile of the nearest Village fire station, on Maple Avenue, off of Barnum Avenue. Access to the site is available along West Broadway, and from Brook Road. The DEIS Proposed project provides access from West Broadway to an east parking lot and south parking lot to Brook Road. The Revised Plan eliminates the West Broadway entrance, which is a temporary entrance during site construction.

2.9.1 Impacts from the Proposed Project

The DEIS Proposed Project increases the impact (increased potential fire and emergency service calls) from the existing single-tenant commercial boat yard facility, and two story residence, to a multi-tenant mixed use facility. Under the newly proposed FEIS Revised Plan, the site will be developed with two three-story multi-family residential buildings with no commercial spaces. The ground-floor commercial office space is eliminated in the Revised Plan. The Revised Plan eliminates the DEIS Proposed Project's permanent access from West Broadway to the formerly proposed parking lot along the east side; and offers to dedicate the south parking lot to the Village for use by attendees of the Village's ball fields, adjacent to the south of the site; and proposes a private cross-access to the easterly adjacent proposed multi-family development, currently under SEQR review based on a separate application.

The Lead Agency received a letter from the Village of Port Jefferson Fire Marshall's Office, dated November 1, 2013, relating to the former DEIS

Proposed Project, containing 14 bullet-point comments specific to fire code compliance, site access for emergency equipment, collapse-zone safety issues, terrace area (DEIS Proposed Project), not having adequate site plans for the proposed action and the Revised Plan, and concerns relating to the SSDS equipment.

Section 3.14 of the FEIS stated that the comments received by the Fire Marshal were not specific enough and that the Revised Plan has been designed by licensed professional engineers to conform with relevant building codes and fire codes. The FEIS also stated that the newly proposed Revised Plan has been designed to provide "adequate emergency access." It was also stated in Section 2.15 of the FEIS that the Revised Plan will be subject to a more detailed review as part of the site plan approval process, and that the approved plan will conform to all applicable fire and safety measures specified by the Village Fire Marshal.

2.9.2 Findings

1. As indicated in Section 1.4 of this Findings Statement, there are significant changes proposed in the Revised Plan which were not subjected to public review and comment by involved agencies, including the Fire Marshal. The Lead Agency posted the FEIS on June 11, 2014, which is accessible for public review. The SEQR process also allows for a 30-day period after the filing of the FEIS for comments by involved agencies.
2. The revised plan will be subject to review and approval of the Village during the Site Plan application, ensuring that no impacts to community facilities and services will occur. Through this process the Applicant shall demonstrate, to the satisfaction of the Lead Agency, the following:

a. That all comments relating to the revised Proposed Project, specifically any comments received from the Fire Marshal, be addressed to the satisfaction of the Lead Agency, including any comments relating to the significant site plan changes not formerly vetted in Alternative 2 of the DEIS. The site plan application shall not be approved until the Lead Agency and the Village Fire Marshal's Office determines that the Revised Plan meets all relevant fire safety requirements which meet or exceed all applicable codes and regulations.

2.9.3 Conclusion

Based on the information provided in the DEIS and FEIS, and representations made by the Applicant in the FEIS, the findings of this environmental review, and the completion of all procedures and measures described above, to the satisfaction of the Lead Agency, the Lead Agency finds that there are no adverse environmental impacts expected from the Proposed Action as contained in the FEIS Revised Plan.

2.10 Community Facilities and Services: Police

The site is served by the Suffolk County Police Department, Sixth Precinct. According to Section 3.3 of the DEIS, 17.2% of the site's 2009-2010 taxes were allocated to the Suffolk County Police Department and Metropolitan Transit Authority. The FEIS provides an analysis of the tax revenue expected for the DEIS Proposed Project and the Revised Plan (Table 1-1, of the FEIS).

2.10.1 Impacts from the Proposed Project

Although the total expected tax revenue for the Revised Plan is less that the estimated total tax revenue for the Proposed Action contained in the DEIS, the estimated values for both plans show a projected tax revenue increase of

almost ten times more that the revenue collected for the existing development during the 2009-2010 Tax Year.

Generally, the development according to the FEIS Revised Plan will most likely increase the impact (increased police responses to property-related calls and emergency service calls) from the existing single-tenant commercial boat yard facility, and two story residence, to two multi-tenant buildings containing a total of 52 residential units, with an estimated 118 residents, and no commercial spaces. It should be noted that neither the DEIS Proposed Project nor the FEIS Revised Plan proposals contain detailed discussions as to whether the estimated increases in estimated total tax revenues will provide adequate compensation to the anticipated increase in demands for police services.

2.10.2 Findings

1. It is noted that the FEIS Revised Plan proposal estimated a substantial amount of additional tax revenue to most likely support the anticipated increased demands for Suffolk County police department services.
2. As indicated in Section 1.4 of this Findings Statement, there are significant changes proposed in the Revised Plan which were not subjected to public review and comment by involved agencies. The Lead Agency posted the FEIS on June 11, 2014, which is accessible for public review. The SEQR process also allows for a 30-day period after the filing of the FEIS for comments by involved agencies.

2.10.3 Conclusion

Based on the information provided in the DEIS and FEIS, and representations made by the Applicant in the FEIS, the findings of this environmental review, the Lead Agency finds that there are no adverse

environmental impacts expected from the Proposed Action as contained in the FEIS Revised Plan.

2.11 Community Facilities and Services: Public Schools

The Proposed Project site is in the Port Jefferson Union Free School District.

2.11.1 Impacts from the Proposed Project

According to the DEIS Proposed Project, the proposed site development is estimated to increase school enrollment from one student to six students, with an increase in the property taxes allocated to the school district from $17,671 (Table 3-3 of the DEIS) for the existing development to $117,484 for the DEIS Proposed Project (Table 1-1 of the FEIS).

However, according to the FEIS, the Revised Plan will double the number of estimated school attendees from the complex, over the DEIS Proposed Project (12 students vs 6 students), resulting in a net negative impact to the school district by $100,000.

2.11.2 Findings

1. The FEIS Revised Plan proposals contains no detailed discussions as to how the substantial estimated increase in estimated total tax revenues can be mitigated. Although additional improvements on the subject property will generate additional school tax revenues, the FEIS proposed Revised Plan will adversely affect district revenues.
2. As indicated in Section 1.4 of this Findings Statement, there are significant changes proposed in the Revised Plan which were not subjected to public review and comment by involved agencies. The Lead Agency posted the FEIS on June 11, 2014, which is accessible for public review. The SEQR

process also allows for a 30-day period after the filing of the FEIS for comments by involved agencies.

3. The revised plan will be subject to review and approval of the Village during the Site Plan application, ensuring that no impacts to community facilities and services will occur. Through this process the Applicant shall demonstrate, to the satisfaction of the Lead Agency, the following:

    a. That the applicant has appropriately eliminated or significantly reduced the adverse affect on school district resources.

2.11.3 Conclusion

Based on the information provided in the DEIS and FEIS, and representations made by the Applicant in the FEIS, the findings of this environmental review, and the completion of all procedures and measures described above, to the satisfaction of the Lead Agency, the Lead Agency finds that there are no adverse environmental impacts expected from the Proposed Action as contained in the FEIS Revised Plan.

2.12 Community Facilities and Services: Solid Waste Disposal

According to Section 3.3 of the DEIS, the existing facility generates approximately 156 pounds per day of solid waste, collected and hauled away by private carters. The private carters deliver collected wastes to the Town of Hempstead Incinerator, under a municipal agreement with the Town of Brookhaven, and incinerated ash from the incinerator is transferred to the Town of Brookhaven's landfill facility. Private carters are charged a fee from the Town of Brookhaven; and the site owner is subject to compliance for source separation of recyclables, collected separately by the Town for its Resource Recovery Facility.

2.12.1 Impacts from the Proposed Project

The DEIS Proposed Project is estimated to generate approximately 422 pounds of solid wastes from the commercial space and tenant units, collected by a private carter, with an estimated 25% of the wastes estimated to be separated for collection and recycling by the Town of Brookhaven.

The FEIS provides no information relating to any increases or decreases in the estimated amounts of solid wastes anticipated for the Revised Plan. The FEIS also includes no comments from the Lead Agency, involved agencies, or public. However, it is assumed that the increase in solid wastes generated by either proposed development does not represent a burden on municipal resources.

2.12.2 Findings

1. The FEIS provides no information relating to any increases or decreases in the estimated amounts of solid wastes anticipated for the Revised Plan, nor does it contain any discussions relating to the mitigation of impacts relating to an anticipated increase in the generation of solid wastes, as a proposed two three-story buildings containing 52 multi-family residential units.
2. The revised plan will be subject to review and approval of the Village during the Site Plan application, ensuring that no impacts to community facilities and services will occur. Through this process the Applicant shall demonstrate, to the satisfaction of the Lead Agency, the following:
    a. That the Revised Plan adequately depicts the location, conditions and practices for sorting, storing and setting-out source-separated recyclables, as per the Town requirements and applicable Village codes. That solid wastes shall be source separated, with solid wastes to be collected by private carters to be stored in vermin-proof

dumpster(s) on-site; to be collected by a licensed carter, as described above.

b. The Applicant's landscaping plan shall depict the dumpster storage area, properly screened and be out of view of the public. Dumpsters shall be enclosed on threes sides by a solid fence and on the front by a solid gate.

c. That the Revised Plan meets all relevant requirements relating to solid wastes generated by the Proposed Project.

2.12.3 Conclusion

Based on the information provided in the DEIS and FEIS, and representations made by the Applicant in the FEIS, the findings of this environmental review, and the completion of all procedures and measures described above, to the satisfaction of the Lead Agency, the Lead Agency finds that there are no adverse environmental impacts expected from the Proposed Action as contained in the FEIS Revised Plan.

2.13 Traffic and Transportation

The Proposed Project contained in the DEIS included a traffic study prepared by NPV dated January 10, 2010. Existing conditions are detailed in Section 3.4.1 of the DEIS.

2.13.1 Impacts from the Proposed Project

The traffic study by NPV concluded that the development of the Proposed Project contained in the DEIS would not result in an adverse traffic impact in the study area, without any special mitigation. The Lead Agency's review of the DEIS agreed with the findings and conclusions contained in the DEIS.

The Applicant stated in the Section 1.4.7 of the FEIS that the proposed Revised Plan would result in fewer vehicle trips than the anticipated trips calculated and reported in the traffic study completed for the DEIS. This is stated to be due to the elimination of the commercial office space, and due to the elimination of the access along West Broadway (except the temporary access during the site construction phase).

Although the Lead Agency's review of the Applicant's analysis contained in the FEIS finds that the Applicant's conclusions relating to traffic impacts by the Revised Plan appear reasonable, there are significant changes proposed in the Revised Plan which were not subjected to public review and comment by involved agencies. The Lead Agency posted the FEIS on June 11, 2014, which is accessible for public review. The SEQR process also allows for a 30-day period after the filing of the FEIS for comments by involved agencies.

2.13.2 Findings

1. The applicant will offer a cross-access agreement to the property to the east to provide an interconnection in the future.
2. The revised plan will be subject to review and approval of the Village during the Site Plan application, ensuring that no impacts to traffic and transportation will occur. Through this process the Applicant shall demonstrate, to the satisfaction of the Lead Agency, the following:
    a. That safe and proper conditions for traffic are maintained including any issues relating to the significant site plan changes not formerly vetted in Alternative 2 of the DEIS.

2.13.3 Conclusion

Based on the information provided in the DEIS and FEIS, and representations made by the Applicant in the FEIS, the findings of this environmental review, and the completion of all procedures and measures described above, to the satisfaction of the Lead Agency, the Lead Agency finds that there are no adverse environmental impacts expected from the Proposed Action as contained in the FEIS Revised Plan.

2.14 Community Character and Visual Resources

The existing site is currently vacant, up until recently operating as a former boat sales, repair, and maintenance facility, with a one-story commercial building and two-story residence, and boat storage yard. The site is unsecured, currently subject to frequent vandalism, and has a prominent amount of graffiti on the buildings.

2.13.1 Impacts from the Proposed Project

The Applicant's DEIS Proposed Project involved the demolition of the existing improvements, and redevelopment of the property with a single three-story mixed-use building containing 52 residential rental units and commercial office space. The ground floor was designed to accommodate parking and the proposed office space, while the second and third floors would contain 26 dwelling units each, and include a prominent terrace feature. The Suffolk County Planning Commission noted that granting of the height variance for the DEIS Proposed Project would allow an unwarranted over-intensification of the use of the property and would establish a precedent that would tend to substantially undermine the effectiveness of the zoning ordinance. Commission voted to disapprove the project. Various public comments were

made objecting to the height variance proposal contained in the DEIS, and the visual impact from the proposed terraces.

2.14.2 Findings

1. As stated in Section 1.4.5 of the FEIS:

   "Overall impacts to community character for the Revised Plan would be less than those of the proposed project, due primarily to the reduction in building height, building bulk, intensity of use, and absence of a commercial component. While the buildings in the Revised Plan would be lower than the proposed project (and so would reduce the potential for adverse aesthetic impacts), the total intensity of usage on the site would be reduced, as there would be only one land use represented in the Revised Plan. Like the proposed project, the building's architectural design, site layout and use of landscaping could provide an attractive use on a site that is not currently aesthetically-pleasing. The donation of the parking area to the Village would improve access to and the informal, rural aesthetic of public recreational resources, and thereby improve the character of the Village, particularly with the planting of 0.08 acres of native upland species in this area."
2. As a result of the plan revisions, the potential for impacts to community character would be reduced from those of the plan described and analyzed in the Draft EIS.
3. As indicated in Section 1.4 of this Findings Statement, there are significant changes proposed in the Revised Plan which were not subjected to public review and comment by involved agencies, including but not limited to the development of the site with two buildings, donation of the south parking lot to the Village, and the proposed private cross access to the easterly adjacent property. The Lead Agency posted the FEIS on June 11, 2014, which is accessible for public review. The SEQR process also allows for a 30-day period after the filing of the FEIS for comments by involved agencies.

2.14.3 Conclusion

Based on the information provided in the DEIS and FEIS, and representations made by the Applicant in the FEIS, the findings of this environmental review, and the

completion of all procedures and measures described above, to the satisfaction of the Lead Agency, the Lead Agency finds that there are no adverse environmental impacts expected from the Proposed Action as contained in the FEIS Revised Plan.

2.15 Archaeological and Historical Resources

The property was identified as having the potential to be archaeologically sensitive. A Phase I Archaeological Survey was completed in November 2009, which included a historical records search and a series of test pits excavated across the site. The results found that other than one piece of ceramic tile found near the existing residence, possibly an 18th-Century artifact, due to the significant amount of Urban Fill placed across the site, the study concluded that the one artifact found was not considered significant.

2.15.1 Findings

The Lead Agency agrees with the conclusions of the study, and additional details provided in the FEIS, and it is concluded that the Proposed Project will not result in adverse environmental impacts associated with archeological and historical resources on the subject site.

2.14.2 Conclusion

Based on the information provided in the DEIS and FEIS, and representations made by the Applicant in the FEIS, the findings of this environmental review, the Lead Agency finds that there are no adverse environmental impacts expected from the Proposed Action as contained in the FEIS Revised Plan.

3.0 FINDINGS STATEMENT CONCLUSIONS

The Planning Board of the Incorporated Village of Port Jefferson, as Lead Agency, has reviewed the Draft Environmental Impact Statement (hereinafter referred to as the Draft EIS) and the Final Environmental Impact Statement (hereinafter referred to as the Final EIS) and certifies that:

- It has considered the relevant environmental impacts, facts and conclusions disclosed in these documents;
- It has weighed and balanced the relevant environmental impacts with social, economic and other considerations;
- It has considered and addressed all public comments on the Draft EIS;
- The requirements of 6 NYCRR Part 617 have been met;
- Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action described below is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable.
- Adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigation measures that were identified as practicable during the environmental review process.

Having considered the Draft and Final Environmental Impact Statements for the proposed Change of Zone and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 NYCRR Part 617.11, this Statement of Findings certifies that:

1. The requirements of 6 NYCRR Part 617 have been met.
2. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the Proposed Action is the one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse impacts

will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures and safeguards that were identified as practicable.

By the Planning Board of the Incorporated Village of Port Jefferson, 88 North Country Road, Port Jefferson, New York 11777.

Signature of Responsible Official

Ray DiBiase
Name of Responsible Official

Planning Board Chairman
Title of Responsible Official

7/15/14
Date

Copies of this Findings Statement have been filed with:
Applicant
Village Planning Board (as Lead Agency)
Commissioner, NYSDEC
NYSDEC, Region 1 Office, Stony Brook
Environmental Notices Bulletin
Parties of Interest
Involved and Interested Agencies:

- Village Zoning Board
- Village Building Department
- Suffolk County Dept. of Health Services
- NYS Dept. of Environmental Conservation
- NYS Dept. of Transportation
- NYS Dept. of Health
- U.S. Environmental Protection Agency
- Suffolk County Planning Commission (SCPC)
- Suffolk County Water Authority (SCWA)
- Suffolk County Sewer Agency (SCSA)
- Port Jefferson Fire District
- Town of Brookhaven
- Port Jefferson Union Free School District (UFSD)
- Village of Port Jefferson Trustees
- Village of Port Jefferson Department of Public Works

- Village of Port Jefferson Fire Marshall
- Village of Port Jefferson Conservation Advisory Committee
- Village of Port Jefferson Public Safety Advisory Board

EXHIBIT E

Requisite Materials

EXHIBIT E-1

Economic Impact Analysis – Water's Edge

ECONOMIC IMPACT ANALYSIS

Water's Edge

Port Jefferson, New York

NP&V No. 08015

Submitted to:

James Tsunis
Overbay LLC
1 Rabro Drive, Suite 100
Hauppauge, New York 11788

Submitted by:

Nelson, Pope & Voorhis, LLC,
Environmental Planning Consultants
572 Walt Whitman Road
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April 16, 2017

TABLE OF CONTENTS

		PAGE
TABLE OF CONTENTS		i
1.0	INTRODUCTION AND PURPOSE	1
2.0	METHODOLOGY	3
3.0	SUMMARY OF ECONOMIC IMPACTS	5
4.0	CONCLUSION	9
5.0	REFERENCES	10

ATTACHMENT A: NELSON, POPE & VOORHIS, LLC, ECONOMIC QUALIFICATIONS

ECONOMIC IMPACT ANALYSIS

Water's Edge

Port Jefferson, New York

NP&V No. 08015

Submitted to:	Overbay LLC 1 Rabro Drive, Suite 100 Hauppauge, New York 11788 Contact: James Tsunis
Submitted by:	Nelson, Pope & Voorhis, LLC 572 Walt Whitman Road Melville, New York 11747 (631) 427-5665 Contact: Charles J. Voorhis, CEP, AICP
Date:	April 16, 2017

1.0 INTRODUCTION AND PURPOSE

Nelson, Pope & Voorhis, LLC has been requested to prepare an update to the *Fiscal and Economic Impact Analysis and Assessment of Project Needs and Benefits* that was prepared in 2010 as part of the Draft Environmental Impact Statement (DEIS) for Water's Edge. NP&V is a professional environmental and planning firm with qualifications and expertise to prepare economic impact analyses, and has a track record of similar completed projects, as well as tax impact and school district analyses, fiscal impact analysis, residential and commercial market analysis and related economic development services to private and municipal clients. The economic qualifications of the firm and personnel are provided in **Attachment A.**

The ±1.84-acre subject property consists of eight (8) parcels, identified as Suffolk County Tax Map District 206, Section 11, Block 6, Lots 18, 19, 20, 21.1, 22.1, 23.1, 24.1 and 25. The parcels are located at the southeast corner of Brook Road and West Broadway in the Village of Port Jefferson within the Town of Brookhaven, Suffolk County, New York.

Water's Edge is proposed as a rental community, and as such the project will develop new housing opportunities for local residents and Stony Brook Students that are currently not available in the local market. As seen in **Table 1**, the development is proposed to include the construction of 52 apartments. It is anticipated that the majority of these units (46) will be constructed and rented as two-bedroom units, while six (6) additional units will be constructed and rented as one-bedroom units.

Table 1
SUMMARY OF PROPOSED DEVELOPMENT

Type of Development	Number of Units	Size
1-BR Units	6	900 SF
2-BR Units	46	1,100 SF

Since the original *Fiscal and Economic Impact Analysis and Assessment of Project Needs and Benefits* was submitted in 2010, many of the resources and data have been updated. This addendum incorporates current resources – including cost estimates, rental rates, job creation and other figures – and analyzes the impacts that are anticipated to occur from the proposed project.

This proposed project will create strong fiscal and economic activity by providing employment opportunities, a solid tax base and net revenues to the local school district. Consumer activity will ripple through the local community, creating beneficial fiscal and economic impacts throughout the Village of Port Jefferson, the school district, the Town of Brookhaven, Suffolk County, and the region as a whole. The following analysis examines and quantifies the economic impacts that are anticipated to result from the construction and annual operations of the proposed project. **Section 2.0** outlines the methodology and the sources of data used to project the economic impacts generated in this analysis. **Section 3.0** presents a summary of the economic impacts, including direct, indirect and induced impacts that are estimated to occur – on output, employment and labor income – during both the 12-18 month construction period, and annually upon stabilized operations of the proposed project. **Section 4.0** provides a conclusion with respect to the overall analysis and **Section 5.0** outlines the references utilized in this analysis.

2.0 METHODOLOGY

This analysis is an addendum to the *Fiscal and Economic Impact Analysis and Assessment of Project Needs and Benefits* which was submitted in 2010 as part of the DEIS for Water's Edge. As such, this analysis seeks to utilize the same methodology as the original analysis, in an effort to present updated findings that can easily be compared to those presented in the original *Economic Impact Analysis.*

Various data and information from state, local, and commercial data sources was used to analyze the projected economic impacts stemming from the construction and annual operation of the proposed project.

Overbay LLC supplied information regarding the proposed unit mix, the construction cost and construction schedule, as well as employment, associated salaries, and detailed revenue generation data specific to the 52 rental units.

United States Bureau of Labor Statistics and New York State Department of Labor publish the Occupational Employment Statistics survey. This survey was used to estimate the wages earned among those employed within construction and extraction occupations. These wages were assumed for each of the workers responsible for the construction of the proposed project.

Minnesota IMPLAN Group developed an economic impact modeling system called IMPLAN, short for "impact analysis for planning." The program was developed in the 1970s through the United States Department of Agriculture's Forest Service, and was privatized in 1993.

IMPLAN is built on a mathematical input-output (I-O) model to express relationships between various sectors of the economy in a specific geographic location. The I-O model assumes fixed relationships between producers and their suppliers based on demand, and the inter-industry relationships within a region largely determine how that economy will respond to change. In an I-O model, the increase in demand for a certain product or service causes a multiplier effect; increased demand for a product affects the producer of the product, the producer's employees, the producer's suppliers, the supplier's employees, and so on, ultimately generating a total impact in the economy that is greater than the initial change in demand.

The IMPLAN model is a method for estimating local economic multipliers, including those pertaining to production, value-added, employment, wage and supplier data. IMPLAN differentiates in its software and data sets between 536 sectors that are recognized by the United States Department of Commerce. Multipliers are available for all states, counties and zip codes, and are derived from production, employment and trade data from sources including the United States Census Bureau, County Business Patterns, Annual Survey of Government Employment, Annual Survey of Retail Trade; United States Bureau of Labor Statistics, Quarterly Census of Employment and Wages, Consumer Expenditure Survey; United States Department of Labor; Office of Management and Budget; United States Department of Commerce; Internal Revenue Service; United States Department of Agriculture, National Agricultural Statistical Service;

Federal Procurement Data Center; and United States Bureau of Economic Analysis, Regional Economic Information System, Survey of Current Business, among other national, regional, state and local data sources.

IMPLAN is widely accepted as the industry standard for estimating how much a one-time or sustained increase in economic activity in a particular region will be supplied by industries located in the region. Federal government agencies such as the Army Corps of Engineers, Bureau of Economic Analysis, Bureau of Land Management, Environmental Protection Agency, Federal Reserve Bank, Fish and Wildlife Service, and National Park Service have used the multipliers to study the local impact of government regulation on specific industries and to assess the local economic impacts of Federal actions. State and local governments including New York State Department of Labor, New York State Division of the Budget, New York State Office of the State Comptroller, New York State Assembly and New York City Economic Development Corporation, have used the multipliers to estimate the regional economic impacts of government policies and projects and of events, such as the location of new businesses within their state, or to assess the impacts of tourism. Likewise, businesses, universities and private consultants have used the multipliers to estimate the economic impacts of a wide range of projects, such as building a new sports facility or expanding an airport; of natural disasters; of student spending; or of special events, such as national political conventions.

NP&V personnel have received formal IMPLAN training through the Minnesota Implan Group, and possess the qualifications to project economic impacts for a multitude of project types using this software. For the purpose of this analysis, multipliers specific to socio-economic data in Suffolk County's "Construction of new multi-family structures" industry were purchased and analyzed to determine the direct, indirect and induced economic impacts during the construction period, and multipliers specific to the socio-economic data in Suffolk County's "Real estate" industry were purchased and analyzed to determine the direct, indirect and induced economic impacts during the operations period of the proposed project.

3.0 SUMMARY OF ECONOMIC IMPACTS

As noted in **Section 1.0**, this analysis presented herein is an addendum to the *Fiscal and Economic Impact Analysis and Assessment of Project Needs and Benefits* that was prepared in 2010 as part of the Draft Environmental Impact Statement (DEIS) for Water's Edge. This analysis examines the revised economic impacts that are associated with the construction of a 52-unit multi-family residential community.

A summary of findings is provided herein. This analysis was prepared using methods, data and information that are considered to be industry standard for such economic impact analyses. This analysis seeks to utilize the same methodology as the original analysis, in an effort to present updated findings that can easily be compared to those presented in the original *Fiscal and Economic Impact Analysis and Assessment of Project Needs and Benefit.*

Definition of Economic Impacts
A *direct impact* arises from the first round of buying and selling. These direct impacts can be used to identify additional rounds of buying and selling for other sectors of the economy and to identify the impact of spending by local households. An *indirect impact* refers to the increase in sales of other industry sectors, which include further round-by-round sales. An *induced impact* accounts for the changes in output and labor income by those employed within the region, resulting from direct and indirect impacts. The *total impact* is the sum of the direct, indirect and induced impacts.

Key Findings
It is projected that the construction period and annual operations of the proposed project will contribute positively to the local economy. During the construction period, opportunities for employment will offer direct, indirect and induced benefits among businesses and households located throughout the region. During annual operations, long term jobs will also offer direct, indirect and induced benefits to the local economy, Suffolk County and the region as a whole. The new jobs created during both the short-term construction period, as well as long-term annual operations of the multi-family residential community will help to increase business and household income in the community. In turn, as spending increases, this creates additional jobs and further increases business and household income throughout the local economy and into other parts of the region.

Economic Impacts of Construction
A detailed analysis of direct, indirect and induced impacts generated during the construction period is outlined below. It is important to note that each of these impacts are temporary and are projected to occur only while the multi-family residential community is being constructed.

- It is anticipated that construction of the multi-family residential community will begin in August 2017 and occur over a period of 12-18 months. For the purpose of this analysis, a 15-month construction period is assumed to start in the Summer of 2017 with the culmination of the proposed project occurring in the Fall of 2018.

- The proposed project is projected to represent approximately $13.0 million[1] in construction costs over the 15-month construction period.[2] This $13.0 million in direct annual output is projected to generate an indirect impact of nearly $5.7 million, and an induced impact of over $6.0 million, bringing the total economic impact on output to over $24.7 million during the 15-month construction period.[3]
- During the construction period, direct employment refers to the number of short-term jobs necessary to complete the construction of the multi-family residential community. Assuming that labor represents approximately 50% of construction costs[4], an average annual wage of $67,680 among those employed within construction and extraction occupations on Long Island[5], and a construction period of 15 months, it is projected that the construction of the proposed project will necessitate 77.0 full time equivalent (FTE) jobs, which are anticipated to last the entire duration of the 15-month construction period.
- The 77.0 FTE jobs created during the construction period will have an indirect impact of 45.0 FTE employees and an induced impact of 41.9 FTE employees in other industry sectors, bringing the total impact of the 15-month construction period to 163.9 FTE jobs.[6] This job creation – direct, as well as indirect and induced – is most crucial and presents opportunities for persons who remain unemployed throughout the region.
- During the construction period, direct labor income refers to the annual earnings, wages, or salary paid to each of the workers responsible for the construction of the proposed project. Labor income typically comprises approximately 50% of the cost of construction; the remaining portion represents the cost of materials.
- On average, labor income is projected to total $67,680 per year, per employee. When applied to the 15-month construction period, this represents approximately $84,600 per employee, and $6.5 million in collective earnings among the 77.0 FTE employees. This labor income is projected to have an indirect impact of over $2.0 million and an additional induced impact of over $2.0 million, bringing the total economic impact of the 15-month construction period to over $10.6 million in labor income.[7]

A summary of key economic findings projected to occur during the 15-month construction period is provided in **Table 2.**

---

[1] For the purpose of this analysis, this figure and all other figures in this analysis reflect 2017 dollars, the year in which construction is scheduled to begin.

[2] Construction costs confirmed by Overbay LLC in March 2017. It is important to note that all costs are estimates based upon market conditions as of the date of preparation of this analysis.

[3] According to IMPLAN, a multiplier of 1.837293 represents the total dollar change in output that occurs in all industries for each additional dollar of output delivered to final demand through the "Construction of new multi-family residential structures" (IMPLAN Sector 60) in Suffolk County, New York.

[4] Construction labor and materials estimates per architectural design group Hawkins, Webb, Jaeger, PLLC.

[5] New York State Department of Labor's Occupational Employment Statistics survey reports a mean wage of $67,680 among those employed within construction and extraction occupations in the Long Island labor market. Data was collected in 2012, 2013, 2014 and 2015 and then updated to the first quarter of 2016 by making cost-of-living adjustments.

[6] According to IMPLAN, a multiplier of 11.741229 represents the total change in the number of jobs that occurs in all industries for each additional one million dollars of output delivered to final demand through the "Construction of new multi-family residential structures" (IMPLAN Sector 60) in Suffolk County, New York.

[7] According to IMPLAN, a multiplier of 0.674112 represents the total dollar change in labor income of households employed by all industries for each additional dollar of output delivered to final demand through the "Construction of new multi-family residential structures" (IMPLAN Sector 60) in Suffolk County, New York.

Table 2
SUMMARY OF KEY ECONOMIC FINDINGS
DURING 15-MONTH CONSTRUCTION PERIOD

Impact Type	Output (Total Revenue)[8]	Employment (Total Number of FTE Jobs)[9]	Labor Income (Total Wages)
Direct Impact	$13,000,000	77.0	$6,500,000
Indirect Impact	$5,698,678	45.0	$2,019,915
Induced Impact	$6,050,820	41.9	$2,080,106
Total Impact	$24,749,498	163.9	$10,600,021

Source: Data provided by Overbay LLC; Analysis by Nelson, Pope & Voorhis, LLC, via IMPLAN software.

Economic Impacts of Annual Operations

A detailed analysis of direct, indirect and induced impacts generated annually during operations of the proposed project is outlined below. It is important to note that each of these impacts is permanent and on-going and they are projected on an annual basis, assuming continued stabilized operations.

- For the purpose of this analysis, it is assumed that the multi-family residential community will begin the operational phase of development upon the completion of the 15-month construction period, anticipated to occur in the Fall of 2018. For the purpose of this analysis, however, the first year of stabilized operations is anticipated to occur in 2019.
- Annual operational revenues (direct output) were determined based on monthly rental rates. The rates range from $1,800 per month for the one-bedroom units, to $2,200 per month for the two-bedroom units. Annually, and assuming full occupancy, this amounts to $1,344,000 in rental revenue.[10]
- The $1,3 million in direct output is projected to generate an indirect impact of over $223,000 and an induced impact of over $406,000 per year. This additional output is generated through round-by-round sales made at various merchants in other sectors of the regional economy. These include local retailers, service providers, banks, grocers, restaurants, financial institutions, insurance companies, health and legal services providers, and other establishments in the region.
- The sum of the direct, indirect and induced impacts results in a total economic impact on output of over $1.9 million during annual operations.[11]

[8] It is important to note that the direct impact of output is equal to the total construction cost of the proposed project over the 12-18 month construction period.

[9] For the purpose of this analysis, it is assumed that the persons employed during the construction of the proposed project will be employed for a duration of 12-18 months, from the commencement until the culmination of the construction period.

[10] Annual operational revenues provided by Overbay LLC in March 2017. For the purpose of this analysis, this figure and all other figures in this section reflect 2019 dollars, the year in which a stabilized year of operations is anticipated to commence.

[11] According to IMPLAN, a multiplier of 1.275683 represents the total dollar change in output that occurs in all industries for each additional dollar of output delivered to final demand by "Real estate" (IMPLAN Sector 440) in Suffolk County, New York.

- The operations of the proposed project are projected to generate 8.0 FTE jobs.[12] These direct employment positions are projected to result in an indirect impact of 1.5 FTE jobs, and an induced impact of 2.7 FTE jobs throughout the region, bringing the total economic impact of employment to 12.2 FTE jobs during a stabilized year of operations.[13]
- The 8.0 FTE employees are anticipated to earn a total of approximately $490,000 in collective labor income.[14] This direct labor income is projected to result in an indirect impact of over $78,000 and an induced impact of nearly $139,000, bringing the total economic impact of labor income to over $708,000 during annual stabilized operations.[15]

A summary of key economic findings projected to occur during annual operations of the multi-family residential community is provided in **Table 3**.

Table 3
SUMMARY OF KEY ECONOMIC FINDINGS DURING ANNUAL OPERATIONS

Impact Type	Output (Annual Revenue)	Employment (Number of Annual FTE Jobs)	Labor Income (Annual Wages)
Direct Impact	$1,344,000	8.0	$490,651
Indirect Impact	$223,605	1.5	$78,568
Induced Impact	$406,135	2.7	$138,953
Total Impact	$1,973,741	12.2	$708,171

Source: Data provided by Overbay LLC; Analysis by Nelson, Pope & Voorhis, LLC, via IMPLAN software.

[12] Annual employment figures confirmed by Overbay LLC in March 2017. It is important to note that all assumptions are estimates based upon market conditions as of the date of preparation of this analysis.
[13] According to IMPLAN, a multiplier of 6.994124 represents the total change in the number of jobs that occurs in all industries for each additional one million dollars of output delivered to final demand by "Real estate" (IMPLAN Sector 440) in Suffolk County, New York.
[14] Annual employee salaries confirmed by Overbay LLC in March 2017. It is important to note that all assumptions are estimates based upon market conditions as of the date of preparation of this analysis.
[15] According to IMPLAN, a multiplier of 0.186877 represents the total dollar change in labor income of households employed by all industries for each additional dollar of output delivered to final demand by "Real estate" (IMPLAN Sector 440) in Suffolk County, New York.

4.0 CONCLUSION

Water's Edge is proposed as a rental community, and as such the project will develop new housing opportunities for local residents and Stony Brook Students that are currently not available in the local market. It is projected that the construction and operations of the proposed project will contribute positively to the local economy. The proposed development will generate immediate construction jobs as well as long-term jobs for the Town of Brookhaven and area residents. During the construction period, and upon a stabilized year of operations, opportunities for employment will offer direct, indirect and induced benefits among businesses and households located throughout the Village of Port Jefferson, the Town of Brookhaven, Suffolk County and the region as a whole. The new jobs created will help to increase business and household income in the community. In turn, as spending increases, this creates additional jobs and further increases business and household income throughout the region. Such economic benefits are most crucial to the local economy, as well as to the economies of Long Island, New York State and the nation as a whole.

5.0 REFERENCES

Minnesota IMPLAN Group, Inc., 2009. IMPLAN Economic Modeling System, Version 3.0.2.1, Revised 2009. Hudson, Wisconsin.

New York State Department of Labor, in partnership with United States Bureau of Labor Statistics, 2017. Occupational Employment Statistics Survey. Long Island Region, 2017.

ATTACHMENT A

Nelson, Pope & Voorhis, LLC
Economic Qualifications

NELSON POPE & VOORHIS

ABOUT NELSON, POPE & VOORHIS...

ENVIRONMENTAL PLANNING CONSULTING

MUNICIPAL PLANNING
SEQRA COMPLIANCE
HARBOR MANAGEMENT PLANNING
FEASIBILITY STUDIES
DUE DILIGENCE ASSISTANCE
REGIONAL PLANNING
ECONOMIC PLANNING
ENVIRONMENTAL SITE ASSESSMENT
ENVIRONMENTAL SCIENCE & ANALYSIS
WETLAND PERMITTING
STORM WATER MANAGEMENT PLANS
WATERFRONT & COASTAL ZONE PROJECTS
MAPPING
WATERSHED MANAGEMENT & WATER SUPPLY
PERMITTING & PROCESSING
SUSTAINABILITY & LEED
PROJECT PLANNING & SUPPORT

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Nelson, Pope & Voorhis, LLC was formed in 1997 and has grown in capabilities and size since that time. The merging of Charles Voorhis & Associates (13 year history) with Nelson & Pope (a 50-year tradition in engineering and related services) created an environmental planning firm with a wealth of experience to bring to complex environmental problem solving, planning and feasibility, resource assessment and site investigations.

Nelson, Pope & Voorhis serves governmental and private sector clients in preparing creative solutions in the specialized area of complex environmental project management and land use planning and analysis.

Nelson, Pope & Voorhis has the benefit of knowledge of local issues, local resources, and the passion to provide the very best solutions and strategies for the local area. This provides unparalleled knowledge of the application of the community planning process, comprehensive planning and SEQRA Administration. The result is a team of highly compatible land use professionals that will get the job done in a manner that ensures real and implementable solutions.

Nelson, Pope & Voorhis employees are recognized as experts in environmental, land use and planning issues and have provided consulting services to various municipalities. NP&V encourages continuing education through participation in conferences and seminars for all staff and holds regular training luncheons utilizing APA and other training packages.

Nelson, Pope & Voorhis has a capable staff of professionals, including planners and economic analysts, ecologists, hydrologists, wetlands specialists and environmental professionals. When integrated with technical staff of Nelson & Pope, the team is expanded to include civil, sanitary and transportation engineers and land surveyors.

Nelson, Pope & Voorhis would appreciate the opportunity to discuss how we can assist you in achieving your goals. We are committed to providing quality environmental, planning and consulting services to all clients. This statement of qualifications is an introduction to the many services we provide with a focus on municipal services; the following pages contain a more detailed presentation of services offered by Nelson, Pope & Voorhis, as well as a sampling of completed projects and key staff resumes.

Call us at (631) 427-5665. We welcome the opportunity to serve your environmental, planning and consulting needs.

NELSON POPE & VOORHIS

MORE ABOUT NELSON, POPE & VOORHIS...

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Charles Voorhis is managing partner and is a member of the American Institute of Certified Planners (AICP) and is a Certified Environmental Professional (CEP), having over 30 years of experience in environmental planning on Long Island and the New York area. Mr. Voorhis oversees the business in terms of management, marketing and expertise, provides expert testimony in hearings and court proceedings, and ensures that client needs are served to the best of the firm's ability.

The firm has significant expertise in applied use of the State Environmental Quality Review Act (SEQRA) with understanding of the practical and legal use of this law from both the private and municipal perspective. Staffing includes environmental professionals assembled to work together as a team with complementary expertise and interests. NP&V personnel maintain wildlife collection permits in New York State, and are active contributors to the Long Island Geographic Information System (GIS) user group meetings and publications.

The firm has developed a number of copyright protected computer models for environmental analysis in the areas of: wildlife and ecology; water budget analysis and groundwater impacts; economic and market analysis; and stormwater impact prediction. The reports and graphics generated for projects are high in quality and professionally prepared through the use of state-of-the-art technology in digital aerial photography, geocoding and mapping of site features using differential global positioning systems (GPS), AutoCAD analysis/mapping, ESRI geographic information systems (GIS) programs including ArcMap and 3D Analyst and Spatial Analyst, custom spreadsheet models for regional land use impact assessment, and related technological tools for advanced data management and word processing. The seamless integration of environmental and engineering services with Nelson & Pope is accomplished by direct communication and computer networking to ensure that projects are managed through the review process to the development stage.

NP&V features three divisions, created to better serve clients with high quality, innovative and responsive consulting

NELSON POPE & VOORHIS

THE THREE DIVISIONS OF NP&V...

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The division of **ENVIRONMENTAL & COMMUNITY PLANNING** specializes in comprehensive local and regional planning. Technology is key in today's planning field and NP&V continues to keep pace with the most current tools available for planning applications. Use of Geographic Information System (GIS) software, 3D Analyst, ArcScene and Spatial Analyst, as well as CommunityViz (3-D simulation and analysis software), architectural SketchUp (modeling software), AutoCAD, and planning and analysis software and spreadsheets, results in rapid, accurate and high quality data, analysis, illustration and reporting. This division conducts planning studies, revitalization plans, community development/public participation activities, and human resource analysis including noise, air, demographic, socio-economic and visual resource assessment (including 3D simulations, photo simulations and shadow studies). The division is directed by Kathryn Eiseman, AICP and includes planners, economic analysts and GIS specialists with environmental, planning and architectural backgrounds.

The division of **ENVIRONMENTAL RESOURCE & WETLANDS ASSESSMENT** provides quality services in the preparation of Environmental Impact Statements (EIS's), Environmental Assessments (EA's), planning and zoning law review and preparation, stormwater permitting and erosion control compliance, and wetland delineation, assessment, mitigation and permitting. This division is headed by Carrie O'Farrell, AICP and has a capable staff including environmental scientists, wetland ecologists and environmental professionals to ensure timely delivery of quality products.

The division of **PHASE I/II ASSESSMENTS & REMEDIATION** performs Phase I and II Environmental Site Assessments (ESA's), voluntary cleanup, brownfields cleanup, RI/FS and all aspects of site remediation and investigation. The division is headed by Steven McGinn, CEI a member of Nelson & Pope's environmental services branch for 13 years with significant experience in preparation of Phase I/II ESA's field investigations and remediation. This division includes a staff of hydrogeologists and environmental professionals and coordinates required field equipment and laboratory services. NP&V has performed large and small assessments and provides the fastest possible turnaround to meet due diligence periods and deadlines which are often a factor in real estate transactions. NP&V Phase I/II ESA services are known and accepted by lending institutions throughout the tri-state area. NP&V owns, maintains and operates GPR (Ground Penetrating Radar) and PowerProbe units to provide expanded services in site investigations. A description of NP&V qualifications and resumes of personnel proposed for the project and specific project experience is included in the

NELSON POPE & VOORHIS

SUMMARY OF SERVICES...

ENVIRONMENTAL PLANNING CONSULTING

MUNICIPAL PLANNING
SEQRA COMPLIANCE
HARBOR MANAGEMENT PLANNING
FEASIBILITY STUDIES
DUE DILIGENCE ASSISTANCE
REGIONAL PLANNING
ECONOMIC PLANNING
ENVIRONMENTAL SITE ASSESSMENT
ENVIRONMENTAL SCIENCE & ANALYSIS
WETLAND PERMITTING
STORM WATER MANAGEMENT PLANS
WATERFRONT & COASTAL ZONE PROJECTS
MAPPING
WATERSHED MANAGEMENT & WATER SUPPLY
PERMITTING & PROCESSING
SUSTAINABILITY & LEED
PROJECT PLANNING & SUPPORT

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What we do at Nelson, Pope & Voorhis...

- **SEQRA Compliance and Environmental Analysis:** Environmental impact statements (EIS); assessment forms (EAF); ecological and wildlife studies; noise and air emission impact studies; and compliance with Federal, State & local environmental regulations & laws.
- **Municipal Planning:** Full environmental and planning review services for municipalities including site plan and subdivision review, zoning board review and SEQRA Administration.
- **Regional and Community Planning:** Conceptual site development planning; public outreach: visioning workshops and charrettes; development alternatives; zoning; site yield studies; build-out analysis; visual analysis (3-D modeling; photo simulations) and comprehensive regional and hamlet planning studies.
- **Feasibility and Due Diligence Assistance:** Comprehensive research into site development related issues affecting project implementation, timing and costs.
- **Economic Planning: Fiscal** and economic impact analyses, market analyses & feasibility studies, economic development strategies, niche market and branding planning, tax base analysis, housing incentives and programs and community development.
- **Grants Administration:** Preparation of federal and state funded municipal grant applications, project management; including the preparation of all reporting documents.
- **Environmental Site Assessment:** Phase I, II and III environmental site assessments; geophysical surveys; remedial investigation and feasibility studies; Brownfield investigations; voluntary cleanup program; oil spill closure; asbestos and lead testing and abatement.
- **Soil Borings & Subsurface Investigations:** Soil borings, Ground Penetrating Radar; groundwater investigations, modeling; and flow studies; monitoring well and peizometer installation.

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- **STORM WATER MANAGEMENT PLANS (SWPPPS):** Design of management plans for storm water and erosion control compliance with latest Federal and State regulations; preparation and processing of NOI; and site compliance during construction...

- **WATERFRONT AND COASTAL ZONE PROJECTS:** Planning; permitting of waterfront improvement projects; water quality data management and studies; and docking facilities...

- **MAPPING:** Inventory of physical features; GIS mapping; data management and analysis; and ground penetrating radar for identification of subsurface conditions...

- **WATERSHED MANAGEMENT AND WATER SUPPLY:** Comprehensive regional watershed and water supply management and planning studies...

- **PERMITTING AND PROCESSING:** Preparation and processing of environmental applications for submittal; client representation before municipal agencies and departments and expert testimony for legal support and hearings...

- **Wetland Permitting:** Flagging and identification of fresh water and tidal wetlands; preparation of wetland permitting; and wetland restoration plans.

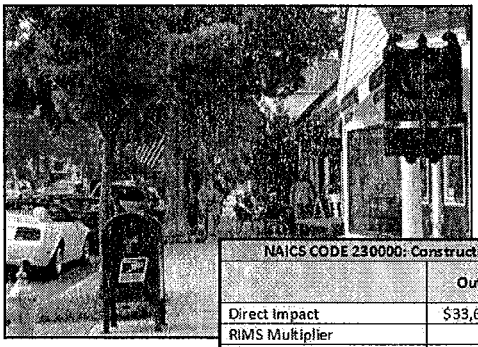
Nelson, Pope & Voorhis has the benefit of knowledge of local issues, local resources, and the passion to provide the very best solutions and strategies for the local area. This provides unparalleled knowledge of the application of the community planning process, comprehensive planning and SEQRA Administration. The result is a team of highly compatible land use professionals that will get the job done in a manner that ensures real and feasible solutions.

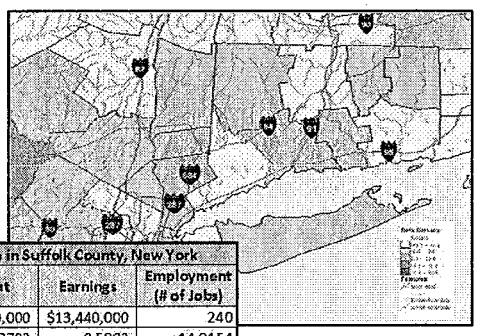
Economic and Fiscal Impact Analysis, Demographic and Community Needs Assessments

Environmental Planning Consulting

- Fiscal Analysis
- Economic Impact Analysis
- Economic Development Strategies
- Market Positioning & Branding
- Main Street Revitalization
- Comprehensive Community Needs Assessments
- Socioeconomic Analysis
- Demographic analysis
- Tax Base Analysis

Feasibility & Due Diligence Assistance
Regional & Site Planning
Economic Planning
Environmental Site Assessment
Environmental Science & Analysis
Wetland Permitting
Storm Water Management Plans
Waterfront & Coastal Zone Projects
Mapping
Watershed Management & Water Supply
Permitting & Processing
Sustainability & LEED
Project Planning & Support





NAICS CODE 230000: Construction in Suffolk County, New York			
	Output	Earnings	Employment (# of Jobs)
Direct Impact	$33,600,000	$13,440,000	240
RIMS Multiplier	1.9793	0.5803	14.0154
Indirect and Induced Impact	$66,504,480	$7,799,232	100
Total Impact	$100,104,480	$21,239,232	340

Many of our clients know of our quality services in tax revenue and demographic impact analysis including demographic and school district impact assessments. This expertise combined with our expert use of Geographic Information System (GIS) and census data has allowed NP&V to complete quality fiscal and economic impact studies since the company was formed in 1997.

Our fiscal impact analyses identify project benefits in terms of tax revenue projections and demand for community services from various providers. We have expanded our capabilities and recently, our economic impact analyses concentrate on an expanded quantification of project benefits including job generation during the construction and operation of development, projected salaries, consumer spending, sales tax generation from spending and other economic "ripple effect" benefits. It is critically important to understand the full benefits of economic development projects during difficult economic times.

NP&V has a track record of completed, successful and built projects involving fiscal impact analysis, demographic assessment, market studies and customized analyses of community service related impacts in nearly all Towns in Nassau and Suffolk Counties. NP&V's economic planning expertise can be integrated into economic development strategies, project feasibility, balancing of mixed-use project scenarios, community development and assistance programs and needs assessments. Please contact us for more information on how we can assist with the economic planning aspects of your development, re-development, revitalization or community needs assessment project.

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MARKET ANALYSIS

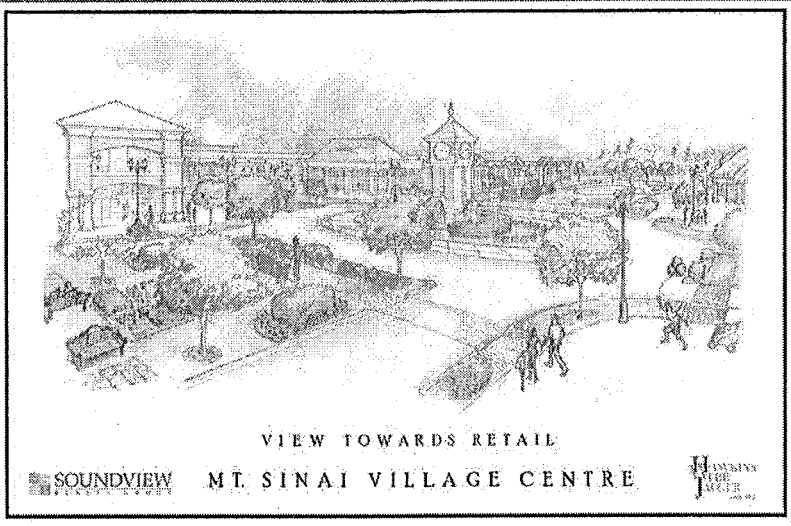
ENVIRONMENTAL PLANNING CONSULTING

FEASIBILITY & DUE DILIGENCE ASSISTANCE
REGIONAL & SITE PLANNING
ECONOMIC PLANNING
ENVIRONMENTAL SITE ASSESSMENT
ENVIRONMENTAL SCIENCE & ANALYSIS
WETLAND PERMITTING
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PROJECT PLANNING & SUPPORT

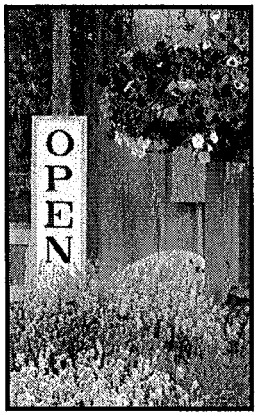
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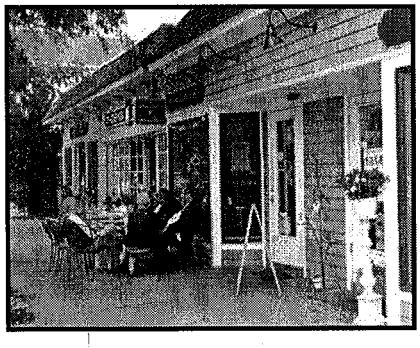
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NP&V is a professional environmental and planning firm with qualifications and expertise to prepare various types of residential and commercial market analyses and feasibility studies, and has a track record of such completed projects throughout Long Island.



In the preparation of a market analysis, NP&V strives to identify and quantify the need for a specific type of development – be it a shopping center, office space, a new residential subdivision or an assisted living community, among others – that can be accommodated at a given location. NP&V is able to analyze the relationship between the supply and demand and reveal whether or not a given development could be supported in a specified location. This is accomplished through the definition of a target market area, a critical evaluation of demographics, socioeconomic characteristics and consumer trends, and an analysis of existing and comparable developments.



Findings and recommendations of our market analyses are tailored to each community, and provide the facts necessary to determine the viability of a given project, attract specific types of businesses, and market projects to possible investors. As such, our market analyses have proven to be a valuable tool in the decision-making process – for both the public sector and private developers.

Niche Market and Branding Plan & Build-Out/Tax Base Analysis
Town of Brookhaven

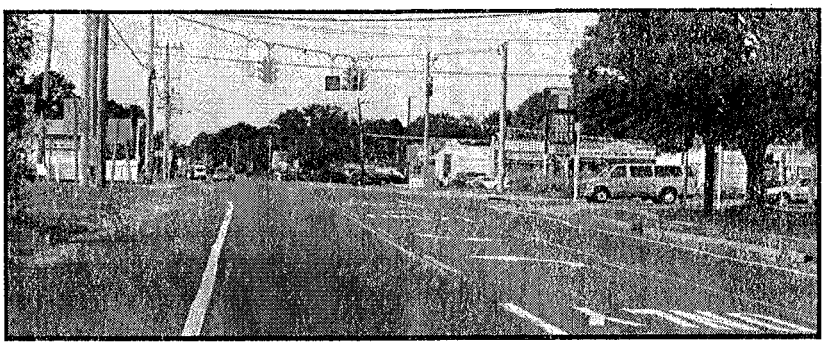
Environmental Planning Consulting

Feasibility & Due Diligence Assistance
Regional & Site Planning
Economic Planning
Grant Preparation & Administration
Environmental Site Assessment
Environmental Science & Analysis
Wetland Permitting
Storm Water Management Plans
Waterfront & Coastal Zone Projects
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Sustainability & LEED
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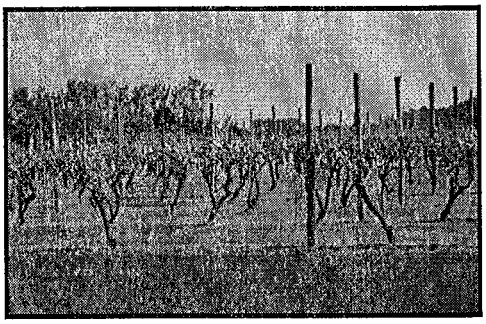
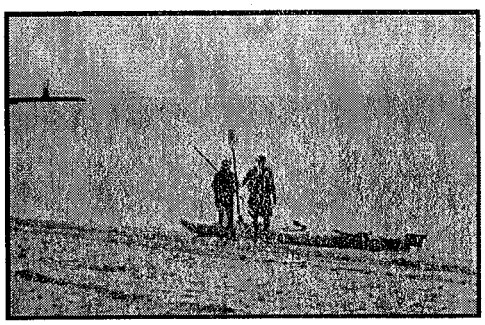
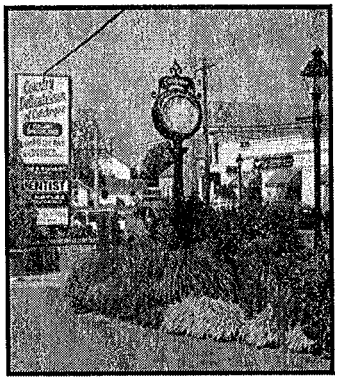
Nelson, Pope & Voorhis (NP&V) is working with the Town of Brookhaven on a niche market and branding plan for Greater Bellport community. The focus of this plan is to form a set of recommendations that outline the necessary steps that members in the Greater Bellport community can take in order to successfully create a sense of place, community pride and positive perceptions through a more niche-oriented position in the local market. NP&V recommended various initiatives to make the Greater Bellport community unique and marketable, creating a place that people want to be, where people are comfortable, and a place that people remember and come back to time and again. The niche market and branding plan strives to promote the community's niche market to new residents, visitors and economic development opportunities alike, offering the Greater Bellport community the opportunity to develop a theme that they want to be known for.

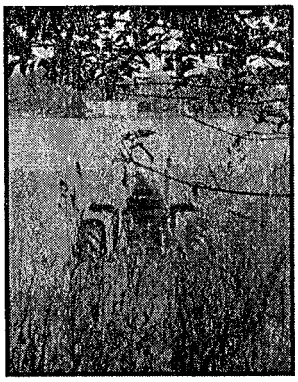
NP&V is also working with the Town of Brookhaven on a build-out/tax base analysis, to analyze how the local school district could be impacted by growth. NP&V is working on the creation of a GIS model to compare tax assessments for various land use scenarios to ensure an adequate tax base to support increased growth in school population without disproportionate increases in residential tax rates. This model will be used to test assumptions for future development and analyze various alternatives in an automated fashion, allowing for easily comparison of scenarios and results. Ultimately, the model will provide a reality check for future planning with respect to provision of quality community services, and may provide support for creating additional commercial tax base within the district. The project is underway, and is nearing completion.

Economic Development Chapter of the Comprehensive Plan Update
Town of Southold

Environmental
Planning
Consulting

Feasibility & Due Diligence Assistance
Regional & Site Planning
Economic Planning
Environmental Site Assessment
Environmental Science & Analysis
Wetland Permitting
Storm Water Management Plans
Waterfront & Coastal Zone Projects
Mapping
Watershed Management & Water Supply
Permitting & Processing
Sustainability & LEED
Project Planning & Support



In an effort to achieve the Town's vision, five goals and numerous objectives were formed to provide direction for future decision-making pertaining to the Town's economy. Much of the Town's economic vitality is based on the Town's unique rural, historic and maritime-based character as well as its natural resources. It is critical that these qualities be recognized, enhanced and protected. NP&V is currently working on the preparation of the economic chapter of the Comprehensive Plan Update for the Town of Southold to allow for the formation of appropriate recommendations and implementation strategies focused on long-term economic sustainability throughout the Town.

One of the specific tasks involved with the economic chapter of the Town's Comprehensive Plan is the zoning/build-out analysis. The Town of Southold is facing development pressure and is concerned about the impact that the current zoning may have on the Town's resources. The Town of Southold prepared a build-out analysis of several zoning districts, and NP&V funneled these findings into a model to assess the regional impact of full build-out and modified development scenarios. Ensuring quality of life, protection of environmental resources, housing needs and maintenance of the tax base were key elements of the model. This project involved the creation of a spreadsheet model to synthesize multiple evaluation factors to analyze the impact of full build out of the Town of Southold under its current zoning. This project is an update to a similar project completed for the Town in 2003.

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RESUMES

Nelson, Pope & Voorhis

CHARLES J. VOORHIS, AICP, CEP

PERSONAL PROFESSIONAL QUALIFICATIONS

Licensing and Certification:

- Certified Environmental Professional (CEP)
- American Institute of Certified Planners (AICP)
- Certified Environmental Inspector, Environmental Assessment Association
- US Coast Guard Master Steam and Auxiliary Sail Vessels

Experience:

- Managing Partner of Firm, Nelson, Pope & Voorhis, LLC; Melville, New York (1/97-Present)
- Principal of Firm, Charles Voorhis & Associates, Inc.; Miller Place, New York (8/88-1/97)
- Director, Division of Environmental Protection, Department of Planning, Environment and Development; Town of Brookhaven, New York (3/86-8/88)
- Environmental Analyst, Division of Environmental Protection, Department of Planning, Environment and Development; Town of Brookhaven, New York (8/82-3/86)
- Private and Public Consultant, Planning and Environmental Issues (8/82-3/87)
- Public Health Sanitarian, Suffolk County Department of Health Services; Hauppauge, New York (1/80-8/82)
- Environmentalist I, Suffolk County Department of Environmental Control, Central Islip, New York (2/78- 8/79)

Education:

- SUNY at Stony Brook; Master of Science in Environmental Engineering, concentration in Water Resource Management, 1984
- Princeton Associates; Groundwater Pollution and Hydrology Short Course, Princeton, New Jersey, 1983
- New York State Health Department, Environmental Health Training Course, Hauppauge, New York, 1982
- Southampton College of Long Island University; Bachelor of Science in Environmental Geology, 1977

Significant Professional Achievements:

- Lake Agawam Comprehensive Management Plan, 2008
- Southold TDR Planning Report and GEIS, 2008
- Suffolk County North Shore Embayments Watershed Management Plan, 2007
- Mt. Sinai Harbor Management Plan, 2006
- The Residences at North Hills, DEIS and FEIS, 2005-06
- Shelter Island Water Supply Study, 2005
- Town of Southold Comprehensive Implementation Strategy, 2003
- Lower Port Jefferson Harbor Action Plan, 2002
- Setauket Fire District Needs Analysis, 2001
- Southampton Agricultural Opportunities Subdivision, DEIS, FEIS and Findings, 2001
- Old Orchard Woods, DEIS and FEIS, 2000
- Town of Smithtown Armory Park, DEIS, 2000
- Town of Southold Water Supply Management & Water Protection Strategy, 2000
- CVS @ Greenlawn, DEIS and FEIS, 1998
- Knightsbridge Gardens, DEIS and FEIS, 1997
- Camelot Village @ Huntington, DEIS, 1997
- Airport International Plaza, DEIS and FEIS, 1996
- Price Club @ New Rochelle, DEIS and FEIS, 1995
- Commack Campus Park @ Commack DEIS and FEIS, 1994
- Water Mill Shops @ Water Mill DEIS, 1993
- PJ Venture Wholesale Club @ Commack DEIS and FEIS, 1993
- Dowling College NAT Center DEIS and FEIS, 1992
- Final EIS Angel Shores @ Southold, 1991
- Town of Brookhaven Boat Mooring Plan, 1991
- Draft EIS Round Hill @ Old Westbury, 1990
- GEIS Commercial Rezonings on the Towns Own Motion, 1988
- Draft EIS St. Elsewhere @ Nesconset, 1989
- EQBA, Acquisition Study for Brookhaven Town, 1987
- Award for Environmentally Sensitive Land Design, Pine Barrens Review Comm., 1988
- Town of Brookhaven Land Use Plan, 1987
- Discussion of Hydrogeologic Zone Boundaries in the Vicinity of S. Yaphank, LI, NY, 1986
- Comprehensive Review of Industrial Zoned Land in the Sensitive Hydrogeologic Zone, Brookhaven, 1983

Professional & Other Organizations (past and present):

- American Planning Association, Washington, D.C.
- National Association of Environmental Professionals, Alexandria, VA
- Environmental Assessment Association, Scottsdale, Arizona
- American Water Resources Association, Syracuse, New York
- New York Water Pollution Control Association, Riverdale, New York
- Water Pollution Control Federation, Washington, D.C.
- Long Island Seaport & EcoCenter, Inc., Director, Port Jefferson, NY
- Boy Scouts of America, Trained Scoutmaster, Nathanial Woodhull District, NY
- Historical Society of Port Jefferson, Trustee, Port Jefferson, NY
- Environmental Conservation Board, Village of Port Jefferson, NY
- Port Jefferson Village, Waterfront Advisory Committee, Port Jefferson, NY
- Town of Brookhaven Mount Sinai Harbor Advisory Committee, Medford, NY
- Brookhaven Conservation Advisory Council, Medford, NY

STEVEN J. MCGINN, CEI

PERSONAL PROFESSIONAL QUALIFICATIONS

Licensing and Certification:

- Licensed Asbestos Inspector
- OSHA 40 Hour HAZWOPER
- Certified Environmental Inspector, Environmental Assessment Association (CEI)
- Lead Based Paint Risk Assessor
- Radon Measurement Specialist

Experience:

- Partner/Division Manager, Nelson, Pope & Voorhis, LLC (July 2005 to Present)
- Senior Environmental Analyst, Nelson, Pope & Voorhis, LLC (January 1997 to July 2005)
- Environmental Analyst, Nelson & Pope, LLP (July 1989 to January 1997)
- Project Manager, Middleton Kontokosta & Associates (May 1988 to July 1989)
- Planning Aide, Town of Huntington Planning Department (January 1987 to May 1988)

Education:

- 8-Hour HAZWOPER Refresher Course
- 40-Hour Course Hazardous Materials Training
- Performing Phase I Environmental Inspections, Environmental Assessment Association, Sept. 1997
- Environmental Regulations Course, Executive Enterprises, June 1996
- Environmental Impact Statements, Cook College/Rutgers University, December 1994
- State University of New York at Cortland - Bachelor of Science in Geography, January 1986

Significant Professional Achievements:

- Village of Hempstead Urban Renewal Project - Phase I ESA
- Coram Plaza, Coram - Phase I, II & III ESA and Asbestos Survey
- 744 Clinton Street, Brooklyn - Phase I & II ESA
- Middle Island Country Club, Middle Island - Phase I & II ESA
- Tyrolean Auto Sport, Northport - Phase II & III ESA
- Long Island Children's Museum, Westbury - Phase I & II ESA
- 940 Bryant Avenue, Bronx - Phase I ESA
- 1345 Seneca Avenue, Bronx - Phase I ESA
- Red Roof Farms, Rye Brook - Phase I & II ESA
- Thomas Dodge Subaru, Port Jefferson - Phase I & II ESA
- 221 Skip Lane, Bay Shore - Phase I & II ESA
- 950 West Main Street, Riverhead - Phase I ESA
- Long Island Galleria/Price Club Plaza, Westbury - DEIS & FEIS
- Currans Road Development, Middle Island - DEIS & FEIS
- Timber Ridge at the Plains, Greenlawn - DEIS & FEIS
- Greene's Creek Marina, Sayville - DEIS
- Town of Brookhaven Marine Reconstruction Projects, Patchogue, Blue Point, Port Jefferson, Mount Sinai, - Tidal Wetland Permits
- Village of Lake Success, Lake Success - Land Use and Zoning Analyses

Professional Responsibilities:

- Division Manager for Phase I and Phase II Environmental Site Assessments, Site Remediation Coordination and Supervision, Lead-Based Paint sampling and Asbestos Surveys for lending institutions
- Author of numerous Phase I & II ESA reports, remediation & brownfield projects work plans, and closure reports in both draft and final formats for major large scale, high-profile pro jects.
- Other responsibilities include the preparation of various environmental, planning and zoning studies and the preparation of various state and federal applications such as: land use and zoning studies, noise and air quality assessments, feasibility studies, economic analyses, freshwater and tidal wetland permits, etc.
- Interaction with various Town, County, State and Federal officials, attorneys, developers, engineers, Town Boards, Planning Boards, and Zoning Boards of Appeals.

Professional & Other Organizations (past and present):

- American Planning Association, Washington, D.C.
- National Association of Environmental Professionals, Alexandria, VA
- Environmental Assessment Association, Scottsdale, Arizona
- National Groundwater Association, Assoc. of Groundwater Scientists and Engineers

CARRIE O'FARRELL, AICP

PERSONAL PROFESSIONAL QUALIFICATIONS

Experience:

- Partner/Division Manager of the Environmental Resource & Wetland Assessment Division, Nelson, Pope & Voorhis, LLC Melville, New York (3/2004 - present).

- Environmental Planner; Nelson, Pope & Voorhis, LLC, Melville, NY (10/2002 to 2/2004). Preparation of environmental assessments, environmental impact statements and various other land use and feasibility studies. Development of land use plans for town zoning and planning purposes, and coordinate reviews with various town and state officials. Preparation of freshwater & tidal wetlands permits & permit plans, NYSDEC Stormwater Pollution Prevention Plans and Stormwater General Permit filings.

- Consultant and Environmental Policy Analyst, Booz Allen Hamilton, Inc., Washington, D.C. (1999 to 2002). Provide program management, planning, on-site support, and data analysis for various federal agency environmental programs including U.S. De partment of Energy, Federal Aviation Administration (FAA), and U.S. Department of Defense.
  Prepared policy recommendations, program information briefings, Congressional testimony, and various program support active ties. Reviewed and prepared sections of environmental impact analyses, policy language, responses to public comments, press releases, and fact sheets; and coordinated interagency meetings and comment resolution between various federal offices.

Education:

- Bachelor of Science: University of Rochester, Environmental Science, May 1999

Significant Professional Achievements:

- Environmental Impact Statements (EIS): Lighthouse@Long Island, Kensington Estates, Woodbury; Roslyn Landing@Roslyn; Tiana Commons PDD, Town of Southampton; Glen Harbor Partners Town of N. Hempstead; The Residences @ North Hills, Village of North Hills; Lands End, Village of Sands Point; Korean Church of Long Island, Village of Lake Success; Sandy Hills, Town of Brookhaven;
- Draft Generic EIS and Mixed Use Planned Development District legislation: Gabreski Airport PDD; North Sea Mixed Use Development District, Southampton, NY.
- Planned Development District Master Plan & Planned Development District (PDD) Legislation: Gabreski Airport Master Plan, Town of Southampton; North Sea PDD, Town of Southampton; Poxabogue Golf Course PDD, Town of Southampton
- Expanded Part I & Part III Environmental Assessments: Parrish Art Museum, Town of Southampton; Cenacle Manor, Ronkonkoma; The Seasons at East Meadow; Laurel Hollow Subdivision; Greenport Marina, Greenport, NY; Engel Burman @ Plainview; Shaw Estates at Manorville
- DEC SPDES Phase II Permits & Municipal Compliance: Village of Poquott, Village of Port Jefferson, & Village of Bellport Stormwater Management Plans; Completion of DEC annual reports; completion of 75+ Stormwater Pollution Prevention Plans for Stormwater Discharges from Construction Activity (GP-0-08-001) for construction sites throughout Nassau & Suffolk Counties.
- Municipal Planning Studies: Mount Sinai Harbor Management Plan, Town of Brookhaven; NYSDOS Beaverdam Creek Watershed Management Plan; NYSDOS Barriers to Fish Passage in six South Shore Estuary Reserve Tributaries; Town of North Hempstead, North Sheets Creek Beach Shoreline & Park Improvements; Town of Shelter Island Water Supply Study; Village of Manorhaven Nature Preserve.
- Wetlands Permits & Feasibility Studies: Fire Island Pines Property Owner's Association, Brookhaven; Bedford Ponds, Bedford, NY; Kismet Walks, Town of Islip; Mooney Pond, Coram, Town of Brookhaven; Port Washington Yacht Club, Port Washington;
- Site plan/subdivision review: Town of Southampton, Town of Southold, & Village of Poquott.
- US Department of Energy Yucca Mountain Project Draft, Supplemental, and Final EIS. Conducted headquarters poli cy review, prepared draft language, and coordinated interagency comment/review of documents for nationwide NEPA project.
- U.S. Department of Energy Yucca Mountain Site Recommendation. Assisted in the development and review of U.S. Secretary of Energy's Yucca Mountain Site Recommendation Decision and Congressional approval.
- NYC CEQR Environmental Assessments: Briarwood Plaza Bell Boulevard Rezoning; Hatzolah of Boro Park
- NEPA Environmental Assessment: Heckscher Museum, Huntington, NY.

KATHRYN J. EISEMAN, AICP

PERSONAL PROFESSIONAL QUALIFICATIONS

Licensing and Certification:

- American Institute of Certified Planners (AICP)

Experience:

- Partner/Division Manager of the Environmental & Community Planning Division, Nelson, Pope & Voorhis, LLC Melville, NY) and Charles Voorhis & Associates, Inc. (Miller Place, NY) (7/93 to Present). Project management, preparation of planning studies, downtown revitalization plans, visual preference surveys and public workshop planning and facilitation, environmental impact statements, Geographic Information Systems analysis and mapping, air impact studies, air dispersion modeling (CAL3QHC), noise impact analysis and mitigation, conduct planning studies for land use compatibility/precedent, school and fiscal analysis, testimony at Planning Board meetings.
- Arlington Central School District; Poughkeepsie, NY. (9/91 - 6/93). Mathematics teacher, grade 7.
- Hyde Park Central School District; Hyde Park, NY. (9/89 - 6/91). Mathematics teacher, grades 7 and 8. Yearbook and Mathcounts Club advisor.

Education:

- State University of NY at Stony Brook, Masters Degree in Environmental and Waste Management, 12/96.
- State University of New York at New Paltz; New York (9/89- 6/93). Graduate studies in mathematics, education, computer science, environmental studies and liberal arts.
- Syracuse University; Syracuse, New York. Bachelors Degree. Dual Majors: Mathematics and Education, 5/88.
- Université de Grenoble; Grenoble, France. French language certificate program for foreign students, 5/84.

Significant Professional Achievements:

- Montauk Highway Corridor Study & Land Use Plan for Mastic and Shirley Phase II , 2009
- East Hampton Commercial Districts Study, 2009
- Oyster Bay LWRP, in progress
- Town of Brookhaven Athletic Fields Needs Assessment, in progress
- Planning Consultant to the Village of Southampton, ongoing
- Eastern Waterfront Community Vision & Revitalization Plan , 6/09
- Lake Ronkonkoma Clean Lakes Study Update, 7/08
- Suffolk County North Shore Embayments Watershed Management Plan, (Final), 11/07
- Syosset Downtown Redevelopment & Revitalization Plan, 9/05
- East Hills Architectural Review Board Planning Study, 1/05
- East Hills Residential Bulk Regulations Review & Study, 1/05
- Stormwater Outfall and Conveyance Inventory and Mitigation Plan for Town of Islip, 2003
- Mt. Sinai Harbor Shellfish Closure Area Investigation, Town of Brookhaven, 2/03
- Hicksville Fire District Mapping and Spatial Analysis, 2003.
- Visual Preference Survey, Port Jefferson Village, 6/02
- Setauket Fire District Needs Analysis, Setauket, New York, 2001
- Review of Past Water Quality Studies, Port Jefferson Village, 2000
- Stormwater Study, Inventory & Analysis of Stormwater Outfalls for the Town of Brookhaven South Shore Bays, 1996, West Meadow Creek, 2000, and Town of Islip, 2001

Professional Organizations, Certifications & Training:

- APA Metro Long Island Section Treasurer
- Boys & Girls Club of Bellport Advisory Council Member
- American Institute of Certified Planners since July 2000
- American Planning Association Member since 1997
- IAP2 Certificate Course in Public Participation, January 2004
- CommunityViz Scenario Constructor, SiteBuilder 3D™, Policy Simulator training, November 2002
- Introduction to ArcView GIS, ESRI 16 hour course, 4/00
- Fundamentals of Dispersion Modeling and Computer Modeling Laboratory, June, 1998
- Rutgers University, Methodology of Delineating Wetlands, July 1987

NICOLE L. DELLAVECCHIA

PERSONAL PROFESSIONAL QUALIFICATIONS

Experience:

Economic Analyst/Planner, Nelson, Pope & Voorhis, LLC (2009-Present)

- Completed fiscal impact analyses and economic impact analyses for planned development districts, as well as residential, commercial, recreational and mixed-use developments
- Prepared market analyses, feasibility studies, and needs assessments on small and large-scale shopping centers, mixed use developments, as well as residential developments, including independent senior living, assisted living facilities, continuing care retirement communities (CCRC) and other senior housing developments
- Completed property tax and sales tax analyses
- Prepared niche market/branding plans
- Conducted tax base, build-out, and zoning analyses
- Completed analyses to assess and quantify impacts to school districts and other local community service providers
- Involved with the preparation of SEQR review documents including Environmental Assessment Forms and Environmental Impact Statements
- Conducted demographic and socioeconomic analyses
- Prepared proposals and other marketing efforts

Urban Planner/Economic Analyst, Saratoga Associates, Saratoga Springs, NY (2006-2008)

- Completed comprehensive/master plans in urban, suburban and rural communities
- Conducted comprehensive community needs assessments, and demographic and socioeconomic analyses
- Heavily involved in economic development strategies, mall redevelopment, and tourism plans

Prepared market analyses and feasibility studies, as well as fiscal and economic impact analyses on variety of uses

- Involved with the preparation of corridor management plans, environmental impact statements, brownfield and industrial park redevelopment plans, local waterfront revitalization programs, parking demand analyses
- Facilitated public participation, community visioning processes and public forums
- Created maps, images, graphics and other visuals for various plans and presentations
- Prepared and reviewed grants for federal, state and local funding sources

Significant Professional Achievements:

- Waterfront Market Analysis: *Town of Oyster Bay Eastern Waterfront Area (2011)*
- Commercial Market Analysis: *The Meadows at Yaphank PDD (2011), Mt. Sinai Village Centre (2011), Artist Lake Plaza (2010), Eastport Hamlet Centre (2009)*
- Residential Market Analysis: *The Uplands at St. Johnland CCRC (2011), Assisted Living Community in Speonk (2010)*
- School District Analysis: *Jefferson Meadows (2011), North Manor Estates (2011)*
- Comprehensive Master Plan: Village of Poquott (2011), *Town of Southold - Economic Development Chapter and Demographics Chapter (2011)*
- Niche Market and Branding Plan: *North Bellport Community (2011)*
- Fiscal Impact Analysis: *The Meadows at Yaphank PDD (2011), Mt. Sinai Village Centre (2011), New Frontier (2011), Eastport Hamlet Centre (2010), The Hamptons Club at Eastport (2009)*
- Economic Impact Analysis: *The Meadows at Yaphank PDD (2011), Mt. Sinai Village Centre (2011), New Frontier (2011), Assisted Living Community at East Northport (2009), The Hamptons Club at Eastport (2009)*
- Planning Analysis in Support of Use Variance: *Edwards Avenue Property, Calverton (2011)*
- Received formal training in the IMPLAN Economic Modeling System through the Minnesota Implan Group, 2009

Education:

- **Master of Urban Planning**
  Specialization in International and Economic Development
  State University of New York, University at Buffalo, 2006
- **Bachelor of Arts - Economics**
  State University of New York, College at Geneseo, 2004
- **Bachelor of Arts - International Relations**
  Specialization in Economic Development
  State University of New York, College at Geneseo, 2004

Professional Organizations and Interests:

- American Planning Association, Member
- United States Green Building Council, Member
- State University of New York, College at Geneseo, Long Island Regional Alumni Committee, Member
- Ronald McDonald House of Long Island, Volunteer
- Special Olympics of New York, New York City Region and Long Island Region, Volunteer
- Alpha Phi Omega, Alumni

EXHIBIT E-2

Fiscal and Economic Impact Analysis and Assessment of Project Needs and Benefits – Water's Edge

FISCAL AND ECONOMIC IMPACT ANALYSIS AND ASSESSMENT OF PROJECT NEEDS AND BENEFITS

Water's Edge

Port Jefferson, New York

NP&V No. 08015

Submitted to:

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c/o Islander Boat Center
185 West Montauk Highway
Lindenhurst, New York 11757

Submitted by:

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August 23, 2010

TABLE OF CONTENTS

		PAGE
TABLE OF CONTENTS		i
1.0	INTRODUCTION AND PURPOSE	1
2.0	EXECUTIVE SUMMARY	3
3.0	METHODOLOGY	7
4.0	EXISTING CONDITIONS	10
4.1	Municipal Fiscal Conditions	10
4.2	School District Fiscal Conditions	15
4.3	Police Department Fiscal Conditions	17
4.4	Fire District Fiscal Conditions	17
4.5	Unemployment Trends	18
4.6	Existing Tax Revenue and Distribution of Subject Property	19
5.0	ANTICIPATED FISCAL IMPACTS	21
5.1	General Impacts	21
5.2	Municipal Fiscal Impacts	22
5.3	School District Fiscal Impacts	24
5.4	Police Department Fiscal Impacts	25
5.5	Fire District Fiscal Impacts	25
6.0	ANTICIPATED ECONOMIC IMPACTS	27
6.1	Economic Impacts of Construction	27
6.2	Economic Impacts of a Stabilized Year of Operations	30
7.0	CONCLUSION	34

FISCAL AND ECONOMIC IMPACT ANALYSIS AND ASSESSMENT OF PROJECT NEEDS AND BENEFITS

Water's Edge

Port Jefferson, New York

NP&V No. 08015

Prepared For:	John Scoglio c/o Islander Boat Center 217 West Broadway Port Jefferson, New York 11776
Prepared By:	Nelson, Pope & Voorhis, LLC 572 Walt Whitman Road Melville, New York 11747 (631) 427-5665
Date:	August 23, 2010

1.0 INTRODUCTION AND PURPOSE

Nelson, Pope & Voorhis, LLC has been requested to prepare a fiscal and economic impact analysis as part of the Draft Environmental Impact Statement (DEIS) for Water's Edge. The ±1.84-acre subject property consists of eight parcels, identified as Suffolk County Tax Map District 206, Section 11, Block 6, Lots 18, 19, 20, 21.1, 22.1, 23.1, 24.1 and 25. The parcels are located at the southeast corner of Brook Road and West Broadway in the Village of Port Jefferson within the Town of Brookhaven, Suffolk County, New York.

Water's Edge is proposed as a luxury rental community, and as such the project will develop new housing opportunities for local residents that are currently not available in the local market. As seen in **Table 1**, the development is proposed to include the construction of 52 apartments. It is anticipated that the majority of these units (approximately 42) will be constructed and rented as one-bedroom units, while ten units will be constructed and rented as two-bedroom units. In addition, the development will include 4,157 square feet of general office space.

Table 1
SUMMARY OF PROPOSED DEVELOPMENT

Type of Development	Number of Units	Size
1-BR Units	42	600 – 845 SF
2-BR Units	10	1,015 – 1,850 SF
General Office Space	--	4,157 SF

Water's Edge will create strong economic activity by providing jobs and a solid tax base. Consumer activity will ripple through the local community, creating beneficial fiscal and economic impacts throughout Port Jefferson, the Town of Brookhaven, Suffolk County, and the region as a whole. The following analysis examines and quantifies the fiscal and economic impacts that are anticipated to result from the development of 52 luxury rental units and 4,157 square feet of general office space at Water's Edge. **Section 2.0** presents an executive summary and key findings of the fiscal and economic impact analysis. **Section 3.0** outlines the methodology and the sources of data used to project the fiscal and economic impacts generated in this analysis. **Section 4.0** describes the existing fiscal and economic conditions – including enrollment trends/population, budget, and current tax rates and levies for the Port Jefferson Union Free School District, Suffolk County Police Department and Port Jefferson Fire District. This section also examines the land use and tax base composition, detailed budgets and the current tax rates and levies for both the Town of Brookhaven and Suffolk County. **Section 5.0** details the fiscal impacts that are anticipated to result from the proposed development. These include beneficial impacts to the local school district, police department, and fire district, as well as the generation of annual property tax revenues allocated to each of the taxing jurisdictions located within the boundary of the project site. **Section 6.0** depicts the economic impacts – on output, employment and labor income – during both the construction period and annually, upon a stabilized year of operations of the development. **Section 7.0** summarizes the key fiscal and economic impacts associated with the construction and annual operations of Water's Edge.

2.0 EXECUTIVE SUMMARY

As noted in **Section 1.0**, this analysis examines the existing conditions and the fiscal and economic impacts that are associated with the development of luxury rental units and general office space at Water's Edge. Fiscal impacts include those on the local school district, police department, and fire district, as well as the generation of property tax revenues. Economic impacts include direct, indirect and induced benefits on output, employment and associated labor income during the construction phase and during a stabilized year of annual operations of the proposed project.

A summary of findings is provided herein, with detailed methodologies and references provided in the subsequent sections of this analysis. This analysis was prepared using methods, data and information that are considered to be industry standard for such fiscal and economic impact analyses.

Statement of Need

Water's Edge is proposed as a luxury rental community, and as such the project will develop new housing opportunities for local residents that are currently not available in the local market. The proposed project will increase the distribution of tax ratables throughout the Port Jefferson Union Free School District, the Town of Brookhaven and Suffolk County. Moreover, Water's Edge will generate immediate construction jobs as well as permanent employment opportunities for Village, Town and area residents. Such fiscal and economic benefits are most crucial during the current economic state throughout Long Island, New York State and the nation as a whole.

Definition of Economic Impacts

A *direct impact* arises from the first round of buying and selling. These direct impacts can be used to identify additional rounds of buying and selling for other sectors of the economy and to identify the impact of spending by local households. An *indirect impact* refers to the increase in sales of other industry sectors, which include further round-by-round sales. An *induced impact* accounts for the changes in output and labor income by those employed within the region, resulting from direct and indirect impacts. The *total impact* is the sum of the direct, indirect and induced impacts.

Key Findings

Existing Conditions

- According to the latest estimates, 8,012 persons reside within the Village of Port Jefferson and nearly 490,000 persons reside within the Town of Brookhaven.
- The vast majority of assessed parcels in the Town of Brookhaven are residential properties, comprising 73.6% of the total number of parcels. However, such properties comprise only 48.2% of the Town's tax base and cause the greatest burden on community services.
- In 2009-10, the Village of Port Jefferson created a balanced budget, totaling just under $8 million.
- The Town created a balanced budget for 2010, with expenditures and revenues totaling nearly $285.2 million.
- Suffolk County created a near balanced budget for 2010, with expenditures of nearly $2.6 billion and revenues totaling roughly $3.1 billion.

- Student enrollment within the Port Jefferson Union Free School District has increased by 19.5% – or by 206 students – over the ten years between 1998-99 and 2007-08.
- The Port Jefferson Union Free School District adopted a balanced budget for the 2009-10 academic year, with revenues and expenditures totaling $37.1 million.
- In 2009, approximately 18,800 persons – 7.2% of the Town's labor force – are unemployed. Such trends are comparable to those of Suffolk County, Long Island and New York State, reflective of the ongoing economic crisis throughout the state and the nation as a whole.
- Property owners residing in the Village of Port Jefferson are currently taxed between $20.70 and $22.02 per $100 assessed valuation of their property, depending on the land use, and whether the property is located within the Business Improvement District.
- Property owners residing within this part of the Town of Brookhaven are currently taxed at a rate of $191.742 per $100 assessed valuation of their property.
- The eight parcels that comprise the site (206-011-6-18, 19, 20, 21.1, 22.1, 23.1, 24.1 and 25), are assessed at $13,270 (0.77% of $1,843,055). This translates into a current generation of approximately $28,895 in tax revenues.

General Impacts

- Water's Edge is proposed to include the development of 52 luxury rental units and 4,157 square feet of general office space.
- It is projected that 95 persons will reside at the proposed development, of which six would be school-aged children.

Anticipated Fiscal Impacts

- The total estimated market valuation of the proposed project is approximately $13 million. After applying an equalization rate and an assessment rate per $100 of the development's value, the estimated assessed valuation of the project upon full build-out is $100,100 – over seven times the valuation under existing conditions.
- At full build-out, the proposed project is projected to generate $210,806 in annual taxes. This represents nearly $182,000 more than revenues generated under existing site conditions.
- The proposed development will levy property taxes for the Port Jefferson Union Free School District in the amount of over $117,000 per year. This accounts for 55.7% of the total tax levy.
- The proposed project will generate nearly $11,000 in annual tax revenues to the Library District, comprising 5.2% of the total revenues.
- It is projected that the Suffolk County Police Department will levy $33,093 in tax revenues each year, accounting for 15.7% of the total tax levy.
- Other departments at the County will levy an additional $3,032 per year, comprising 1.5% of total revenues.
- The Village of Port Jefferson is projected to generate approximately $20,721 in property taxes, and an additional $52 is anticipated to be distributed to the Business Improvement District.
- Water's Edge is projected to generate $7,061 in property taxes to the Town of Brookhaven. This includes revenues to be distributed to the general and highway Town-wide funds.
- It is projected that the Port Jefferson Fire Department will levy $6,633 in tax revenues each year, accounting for 3.1% of the total tax levy.
- An additional $11,753 will be distributed among the Town's other special taxing jurisdictions, including the $100M Bond Act of 2004, the County Sewer District, the Real Property Tax Law-Article 7, and the Real Property Tax Law. Taxes levied to these districts represent 5.6% of the total tax generation.
- Of the six school-aged children projected to reside within Water's Edge, it is anticipated that one of the students will attend nonpublic schools. The other five school-aged children are likely to be

enrolled as general education students within the Port Jefferson Union Free School District.

- The five new general education students will result in additional costs to the Port Jefferson Union Free School District, totaling approximately $76,855 per academic year. When compared to estimated revenues of $117,484, the school district is projected to experience annual net revenue of approximately $40,629. This revenue will ease the district's need to tap into additional fund balances, and could also help alleviate an increased burden on other taxpayers throughout the district. Both of these alternatives are most crucial at a time of fiscal and economic hardship throughout Long Island, New York State and the nation.

A summary of key fiscal findings is provided in **Table 2**. The methodologies and full derivation of the facts and figures presented in the above summary are fully described in subsequent sections of this analysis.

Table 2
SUMMARY OF KEY FISCAL FINDINGS

Fiscal Parameter	Impact
Existing Tax Revenue Generation: Subject Property	$28,895
Total Residents	95
School-Aged Children	*6*
Total Estimated Assessed Valuation: Water's Edge	$101,100
Projected Total Tax Revenue: Water's Edge	$210,806
To Port Jefferson Union Free School District	*$117,484*
To Library District	*$10,977*
To Suffolk County Police Department	*$33,093*
To Other Departments at Suffolk County	*$3,032*
To Village of Port Jefferson	*$20,721*
To Port Jefferson Business Improvement District	*$52*
To Town of Brookhaven	*$7,061*
To Port Jefferson Fire District	*$6,633*
To Other Local and Special Taxing Jurisdictions	*$11,753*
Net Impact on School District	$40,629

Anticipated Economic Impacts

- Construction of Water's Edge is anticipated to commence during the first quarter of 2012, lasting 18 to 24 months in duration with a projected completion in the fourth quarter of 2013.
- The $13 million in initial output is projected to generate an indirect impact of nearly $3.6 million, and an induced impact of over $3.4 million, bringing the total economic impact on output to over $20 million during the construction period.
- It is projected that the construction period will necessitate 45.9 full time equivalent (FTE) employees. The majority of these employees will be hired from the Long Island labor force, with many from within the Town of Brookhaven. This job creation is most crucial during Long Island's present economic state, and presents an abundance of opportunities for the thousands of persons who are currently unemployed throughout the region.

- The 45.9 FTE jobs created during the construction period will have an indirect impact of 24 FTE employees and an induced impact of 23.3 FTE employees in other industry sectors, bringing the total impact of construction to 93.2 FTE jobs during the construction period.
- Labor income from the construction jobs are projected to amount to $63,837 to $65,752 per year, per employee. This represents nearly $5.2 million in collective earnings among the 45.9 FTE employees over the construction period. This labor income is projected to have an indirect impact of $1.4 million and an induced impact of over $1.1 million, bringing the total impact of the construction to over $7.7 million in labor income over the construction period.
- A stabilized year of operations is projected to occur in 2014. At this time, it is assumed that Water's Edge will be operating at near full occupancy, with the office space and most of the apartments rented and occupied.
- The $1 million in annual operational revenues is projected to generate an indirect impact of $158,342 and an induced impact of $277,558 per year. Such indirect and induced impacts are generated through round-by-round sales made through various merchants in other sectors of the regional economy. These include local retailers, service providers, banks, grocers, restaurants, financial institutions, insurance companies, health and legal service providers, and other establishments throughout Suffolk County.
- The sum of the direct, indirect and induced impacts results in a total economic impact on output of over $1.4 million during annual operations.
- Water's Edge is anticipated to generate eight FTE employees during annual operations. The eight FTE employment positions are projected to result in an indirect impact of 0.9 FTE jobs, and an induced impact of 1.7 FTE jobs throughout the region, bringing the total impact of employment to roughly 10.6 FTE jobs during annual operations.
- The eight FTE employees are anticipated to earn a total of over $490,000 in collective labor income. This direct labor income is projected to result in an indirect impact of $54,681 and an induced impact of $91,927, bringing the total economic impact of labor income to $637,259 during annual operations.

A summary of key economic findings is provided in **Table 3**. The methodologies and full derivation of the facts and figures presented in the above summary are fully described in subsequent sections of this analysis.

Table 3
SUMMARY OF KEY ECONOMIC FINDINGS

Economic Impact Parameter	Output (Revenue)	Employment (Jobs)	Labor Income (Wages)
Economic Impact of Construction			
Direct Impact	$13,000,000	45.9	$5,188,205
Indirect Impact	$3,595,496	24	$1,413,338
Induced Impact	$3,427,257	23.3	$1,119,956
Total Economic Impact of Construction	$20,022,750	93.2	$7,721,498
Economic Impact of Annual Operation			
Direct Impact	$1,000,097	8	$490,651
Indirect Impact	$158,342	0.9	$54,681
Induced Impact	$277,558	1.7	$91,927
Total Economic Impact of Annual Operation	$1,435,997	10.6	$637,259

3.0 METHODOLOGY

Various data and information from state and local sources was used to analyze the fiscal and economic impacts stemming from the proposed development of Water's Edge.

Islander Boat Center supplied information regarding the proposed unit mix, construction costs, construction schedule, proposed amenities and monthly/annual rental rates for the luxury apartment units and the office space.

Port Jefferson Union Free School District provides data pertaining to the budget, enrollment trends, education costs and location of school buildings within the boundaries of the district.

Port Jefferson Fire District provides data pertaining to the boundaries of the district, population served, the location of the station, and statistics pertaining to the number of annual calls.

The Village of Port Jefferson, the Town of Brookhaven and Suffolk County provides information regarding approved budgets and current tax rates for Tax Map parcels #206-011-6-18, 19, 20, 21.1, 22.1, 23.1, 24.1 and 25. This tax information was used to compare the existing revenues to those that are projected to be generated upon full build-out of Water's Edge.

Suffolk County Police Department provides data pertaining to the boundaries of the various precincts, population served, the location of stations, and statistics pertaining to the number of annual calls.

New York State Education Department provides New York State District Report Cards and the Comprehensive Information and the Accountability and Overview reports specific to the Port Jefferson Union Free School District. This information allows for an analysis of how the development may affect the school district's enrollment and future budget.

New York State Office of the State Comptroller and New York State Office of Real Property Services both provide municipal tax information, and data pertaining to the existing tax base and tax revenues for the Village of Port Jefferson, Town of Brookhaven and Suffolk County, New York. This information was used to better understand how local budgets and taxing jurisdictions will be affected by the development of Water's Edge.

United States Bureau of Labor Statistics and New York State Department of Labor publish the Quarterly Census of Employment and Wages. This survey was used to estimate the wages earned among those employed within *Construction and Extraction* Occupations in the Long Island labor market. These wages were assumed for each of the employees during the construction of the proposed development.

United States Census Bureau provides the latest population estimates and other pertinent demographic data for the Village of Port Jefferson, the Village of Belle Terre, the Town of Brookhaven and Suffolk County.

Minnesota IMPLAN Group developed an economic impact modeling system called IMPLAN, short for "impact analysis for planning". The program was developed in the 1970s through the United States Department of Agriculture's Forest Service, and was privatized in 1993.

IMPLAN is built on a mathematical input-output (I-O) model to express relationships between various sectors of the economy in a specific geographic location. The I-O model assumes fixed relationships between producers and their suppliers based on demand, and the inter-industry relationships within a region largely determine how that economy will respond to change. In an I-O model, the increase in demand for a certain product or service causes a multiplier effect; increased demand for a product affects the producer of the product, the producer's employees, the producer's suppliers, the supplier's employees, and so on, ultimately generating a total impact in the economy that is greater than the initial change in demand.

The IMPLAN model is a method for estimating local economic multipliers, including those pertaining to production, value-added, employment, wage and supplier data. IMPLAN differentiates in its software and data sets between 440 sectors that are recognized by the United States Department of Commerce. Multipliers are available for all states, counties and zip codes, and are derived from production, employment and trade data from sources including the United States Census Bureau, County Business Patterns, Annual Survey of Government Employment, Annual Survey of Retail Trade; United States Bureau of Labor Statistics, Quarterly Census of Employment and Wages, Consumer Expenditure Survey; United States Department of Labor; Office of Management and Budget; United States Department of Commerce; Internal Revenue Service; United States Department of Agriculture, National Agricultural Statistical Service; Federal Procurement Data Center; and United States Bureau of Economic Analysis, Regional Economic Information System, Survey of Current Business, among other national, regional, state and local data sources.

IMPLAN is widely accepted as the industry norm in estimating how much a one-time or sustained increase in economic activity in a particular region will be supplied by industries located in the region. Federal government agencies such as the Army Corps of Engineers, Bureau of Economic Analysis, Bureau of Land Management, Environmental Protection Agency, Federal Reserve Bank, Fish and Wildlife Service, and National Park Service have used the multipliers to study the local impact of government regulation on specific industries and to assess the local economic impacts of Federal actions. State and local governments including New York State Department of Labor, New York State Division of the Budget, New York State Office of the State Comptroller, New York State Assembly and New York City Economic Development Corporation, have used the multipliers to estimate the regional economic impacts of government policies and projects and of events, such as the location of new businesses within their state, or to assess the impacts of tourism. Likewise, businesses, universities and private consultants have used the multipliers to estimate the economic impacts of a wide range of projects, such as building a new sports facility or expanding an airport; of natural disasters; of student spending; or of special events, such as national political conventions.

NP&V personnel have received formal IMPLAN training through the Minnesota Implan Group, and possess the qualifications to project economic impacts for a multitude of project types using this software. For the purpose of this analysis, multipliers specific to socio-economic data in

Suffolk County were purchased and analyzed to determine the direct, indirect and induced economic impacts during both the short-term construction period and during annual operations of the Water's Edge in the Village of Port Jefferson. The projected economic impacts can be found in **Section 6.0** of this analysis.

4.0 EXISTING CONDITIONS

4.1 Municipal Fiscal Conditions

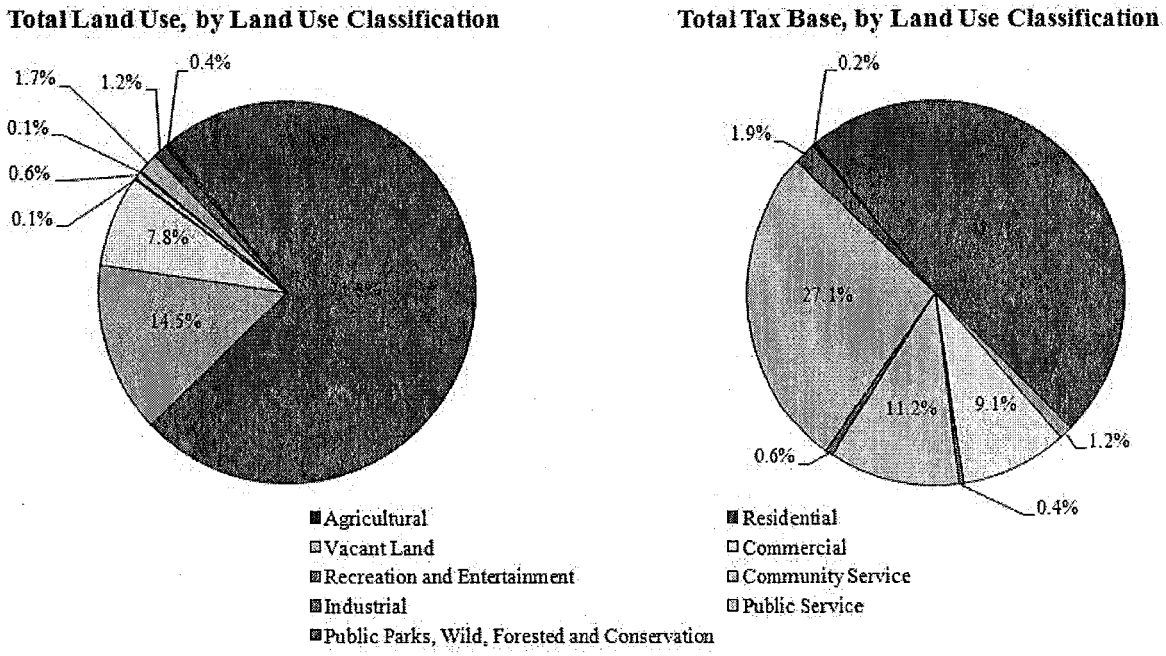
While the largest land use category in the Town of Brookhaven is residential, the Town supports many retail and service businesses as well as office and industrial uses. The Village of Port Jefferson is similar in nature, though its location on the waterfront has given way to a mix of uses to support the local culture. According to the latest estimates, a population of 8,012 persons resides within the Village and nearly 490,000 persons exist within the Town.[1] This large residential component is verified with land use classification data.[2] As seen in **Table 4** and in **Chart 1**, the vast majority of assessed parcels in the Town are residential properties, comprising 73.6% of the total number of parcels. The majority of parcels are classified as residential; however, residential parcels comprise a much smaller portion of the Town's tax base, at 48.2% of the total assessed valuation. Vacant land is the second most abundant land use, comprising 14.5% of the Town's parcels, yet not surprisingly only 1.2% of the local tax base. Commercial, community service and public service properties combine to constitute just over 10% of number of parcels within the Town, yet make up 47.5% of the tax base.

Table 4
LAND USE AND TAX BASE COMPOSITION, TOWN OF BROOKHAVEN: 2009

Land Use Classification	Number of Parcels	Percent of Total Land Use	Assessed Valuation	Percent of Total Tax Base
Agricultural Properties	699	0.4%	$1,465,436	0.2%
Residential Properties	135,297	73.6%	$379,201,849	48.2%
Vacant Land	26,579	14.5%	$9,167,363	1.2%
Commercial Properties	14,325	7.8%	$71,739,069	9.1%
Recreation and Entertainment Properties	233	0.1%	$2,835,981	0.4%
Community Service Properties	1,068	0.6%	$88,392,663	11.2%
Industrial Properties	270	0.1%	$4,810,393	0.6%
Public Service Properties	3,171	1.7%	$213,128,221	27.1%
Public Parks, Wild, Forested and Conservation Properties	2,252	1.2%	$15,182,805	1.9%
TOTAL: ALL PROPERTIES	**183,894**	**100.0%**	**$785,923,780**	**100.0%**

[1] According to the United States Census Bureau, the 2008 population estimate for the Village of Port Jefferson is 8,012 and the population estimate for the Town of Brookhaven is 488,800.
[2] New York State Office of Real Property Services, 2009 Annual Assessment Rolls, 2009 Parcel Counts by Individual Property Class Code.

Chart 1
LAND USE AND TAX BASE COMPOSITION, TOWN OF BROOKHAVEN: 2009



In 2009-10, the Village of Port Jefferson created a balanced budget, with expenditures and revenues within the General Fund estimated at $7,995,784.[3] Likewise, the Town of Brookhaven created a balanced budget, with expenditures anticipated to equal the revenues in 2010. The Town budgeted for $285,182,546, with funds levied and drawn from six major funds. These include the General Fund-Whole Town, the General Fund-Part Town, the Highway Fund-Whole Town, the Highway Fund-Part Town, the Street Lighting District and the Refuse & Recycling District. In addition, there exist numerous special district funds, which are only applicable to the municipalities that exist within their jurisdictions.[4]

Suffolk County created a near balanced budget for 2010, with expenditures of nearly $2.6 billion and revenues totaling roughly $3.1 billion. Revenues are levied and expenditures are drawn from six major funds: the General Fund, the County Road Fund, the Police District Fund, the Nursing Home Fund, the Sewer and Miscellaneous Fund, and the Community College Fund.[5]

[3] Incorporated Village of Port Jefferson, Annual Budget 2008-2009.
[4] *"Good Government as a Path to Fiscal Recovery,"* Town of Brookhaven 2010 Adopted Budget, November 10, 2009.
[5] *"Bridging the Gap to Economic Recovery,"* 2010 Recommended Operating Budget: Narrative and Appropriations, County of Suffolk, NY.

Table 5
MUNICIPAL BUDGETS: 2010

	Village of Port Jefferson	Town of Brookhaven	Suffolk County
Total Expenditures	$7,995,784	$285,182,546	$2,559,290,292
Total Revenues	$7,995,784	$285,182,546	$3,076,270,210

Though municipal budgets are intended to be balanced, this rarely occurs. A closer examination of the audited and reported 2008[6] financial data for the Village of Port Jefferson, the Town of Brookhaven and Suffolk County reveals such trends. In 2008, the Village of Port Jefferson expended approximately $10.9 million. The two largest categories of the Village budget were culture and recreation, accounting for 23.7% of the budget, and general government – which comprised 14.3% of the total budget. There was no money allocated in the municipal budget for education, health, social services or utilities during the year.

The Village levied over $11.7 million in revenues in 2008. The two largest sources of income in the Village budget include real property taxes and assessments, and charges for services. Combined, these two sources of revenue generated approximately $7.6 million and levied roughly 65% of the Village revenues in 2008. Despite a surplus of over $824,000, the Village carried a $1.745 million debt as of the end of last year.

In 2008, the Town of Brookhaven expended approximately $443.7 million. The two largest categories of the Town's budget were sanitation – which comprised 24.5% of the total budget – and general government, which accounted for 13.7% of the budget. There was no money allocated in the municipal budget for neither health nor education, and less than one percent of the budget was allocated to economic development, community services and utilities during the year.

The Town levied approximately $432 million in revenues in 2008. Not surprisingly, the two largest sources of income in the Town's budget include real property taxes and assessments, and charges for services. Real property taxes and assessments generated approximately $147 million and levied roughly 34.1% of the Town's revenues, and charges for services levied just over $102.3 million, comprising 23.7% of Town revenues. The $11.5 million deficit will contribute to the Town's debt, which totaled $398.5 million as of the end of 2008.

In 2008, Suffolk County's finances were vastly different than those in the Town of Brookhaven. The County expended approximately $3.47 billion in 2008. Indicative of the different levels of government and services provided to its residents, Suffolk County reported public safety and social services as their top expenditures. Public safety expenses totaled $635.5 million, and comprised 18.3% of the County budget. Likewise, approximately $540 million was allocated to social services, which made up 15.5% of the annual budget. Similar to the Town's expenditures,

[6] As of the date of submission of this analysis, this represents the most current year that such detailed financial data is available.

very little money was allocated to economic development, community services and utilities, with less than one percent of the budget devoted to each.

During the same year, the County levied approximately $3.58 billion in revenues. Not surprisingly, the largest source of income levied by the County was sales and use tax, which accounted for almost $1.16 billion or 32.5% of total County revenues in 2008. Real property taxes and assessments levied $530.9 million and comprised 14.8% of annual revenues. The near $109 million surplus is a necessary step in paying off the County's debt, which totaled nearly $1.4 billion at the end of 2008.

Table 6
ACTUAL MUNICIPAL EXPENDITURES AND REVENUES: 2008

	Village of Port Jefferson	Percent of Village Budget	Town of Brookhaven	Percent of Town Budget	Suffolk County	Percent of County Budget
Total Expenditures	**$10,920,638**	**100.0%**	**$443,746,661**	**100.0%**	**$3,472,992,043**	**100.0%**
General Government	$1,557,160	14.3%	$60,828,601	13.7%	$319,876,914	9.2%
Education	$0	0.0%	$0	0.0%	$224,505,909	6.5%
Public Safety	$877,232	8.0%	$24,241,737	5.5%	$635,510,509	18.3%
Health	$0	0.0%	$33,616	0.0%	$225,548,448	6.5%
Transportation	$1,489,671	13.6%	$56,949,370	12.8%	$166,359,663	4.8%
Social Services	$0	0.0%	$9,693,879	2.2%	$539,982,852	15.5%
Economic Development	$16,762	0.2%	$3,070,942	0.7%	$28,630,428	0.8%
Culture and Recreation	$2,590,217	23.7%	$29,531,146	6.7%	$51,935,202	1.5%
Community Services	$1,315,880	12.0%	$4,314,495	1.0%	$28,683,188	0.8%
Utilities	$0	0.0%	$687,960	0.2%	$3,353,380	0.1%
Sanitation	$108,112	1.0%	$108,741,588	24.5%	$62,103,938	1.8%
Employee Benefits	$1,303,091	11.9%	$37,146,552	8.4%	$472,996,883	13.6%
Debt Service	$816,750	7.5%	$48,030,863	10.8%	$176,957,074	5.1%
Other Uses	$845,763	7.7%	$60,475,912	13.6%	$536,547,656	15.4%
Total Revenues	**$11,744,799**	**100.0%**	**$432,255,093**	**100.0%**	**$3,581,888,348**	**100.0%**
Real Property Taxes and Assessments	$4,522,966	38.5%	$147,192,345	34.1%	$530,944,993	14.8%
Other Real Property Tax Items	$11,769	0.1%	$1,752,009	0.4%	$42,081,771	1.2%
Sales and Use Tax	$193,731	1.6%	$0	0.0%	$1,164,486,053	32.5%
Other Non Property Taxes	$132,984	1.1%	$6,285,721	1.5%	$6,909,724	0.2%
Charges for Services	$3,121,594	26.6%	$102,328,380	23.7%	$241,980,260	6.8%
Charges to Other Governments	$34,564	0.3%	$3,180,927	0.7%	$4,511,902	0.1%
Use and Sale of Property	$209,028	1.8%	$9,409,305	2.2%	$42,127,654	1.2%
Other Local Revenues	$471,680	4.0%	$13,600,455	3.1%	$50,215,550	1.4%
State Aid	$1,620,004	13.8%	$20,188,505	4.7%	$335,262,736	9.4%
Federal Aid	$30,716	0.3%	$12,841,536	3.0%	$223,103,975	6.2%
Proceeds of Debt	$550,000	4.7%	$55,000,000	12.7%	$385,974,729	10.8%
Other Sources	$845,763	7.2%	$60,475,910	14.0%	$554,289,000	15.5%
Total Indebtedness	**$1,745,000**		**$398,507,051**		**$1,392,132,241**	

4.2 School District Fiscal Conditions

According to New York State Education Department, 458,613 school-aged children residing in Long Island were enrolled in public schools, while 50,023 school-aged children were enrolled in nonpublic (private) schools in the 2008-09 academic year. This equates to 90.2% of all school-aged children attending public schools; the remaining 9.8% of school-aged children in Long Island attend nonpublic (private) schools.

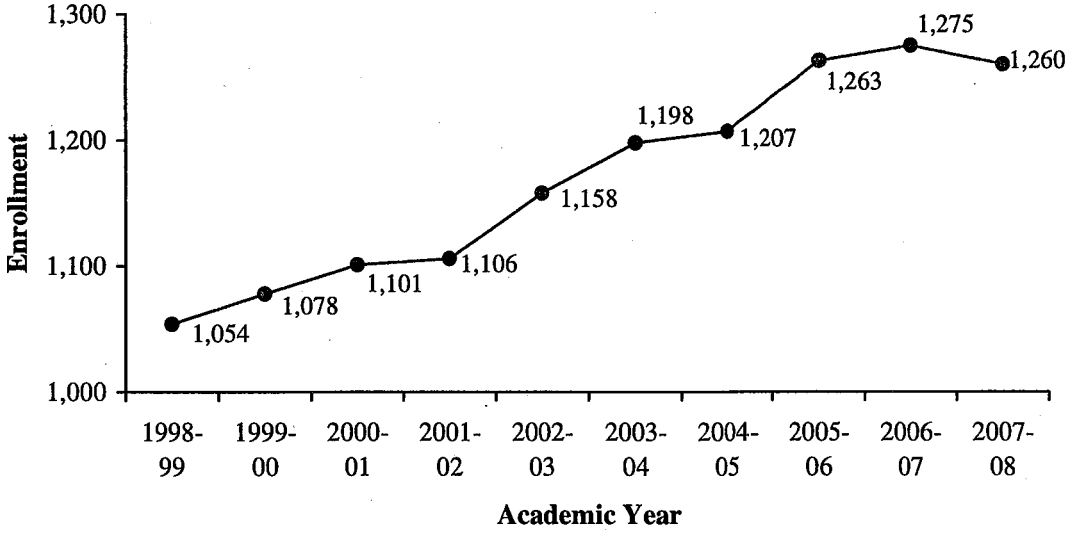
Water's Edge is located within the Port Jefferson Union Free School District. The district is comprised of three schools – Edna Louise Spear Elementary School serves students enrolled in Pre-K through fifth grade, Port Jefferson Middle School provides education to students in grades six through eight, and Earl L. Vandermeulen High School serves those enrolled in grades nine through twelve.

As seen in **Table 7** and **Chart 2**, the cumulative enrollment within the three schools has increased by 206 students, or 19.5%, over the ten years between 1998-99 and 2007-08. The largest increase was witnessed in the Edna Louise Spear Elementary School, which experienced 23.8% growth over the past ten years. This substantial increase in student enrollment indicates an influx of families with school-aged children and a trend toward new residential development in Port Jefferson. Regardless of these trends, however, there is no known capacity or overcrowding issues within the school system.

Table 7
ENROLLMENT TRENDS

Academic Year	Edna Louise Spear Elementary School	Port Jefferson Middle School	Earl L. Vandermeulen High School	Total: Port Jefferson Union Free School District
1998-99	467	255	332	**1,054**
1999-00	492	248	338	**1,078**
2000-01	487	263	351	**1,101**
2001-02	501	267	338	**1,106**
2002-03	525	295	338	**1,158**
2003-04	543	300	355	**1,198**
2004-05	550	285	372	**1,207**
2005-06	555	285	423	**1,263**
2006-07	579	287	409	**1,275**
2007-08	578	293	389	**1,260**
Change: 1998-99 to 2007-08	**+111 students 23.8% growth**	**+38 students 14.9% growth**	**+57 students 17.2% growth**	**+206 students 19.5% growth**

Chart 2
ENROLLMENT TRENDS



According to the New York State School Report Card, Fiscal Accountability Supplement for Port Jefferson Union Free School District, expenditures averaged $15,371 per general education student and $46,311 per special education student during the 2007-08 academic year. During this year, 129 students, or 9.6% of the students within Port Jefferson Union Free School District, were enrolled in the special education program.

The Port Jefferson Union Free School District projected a balanced budget for the 2009-10 academic year, with revenues and expenditures totaling $37,155,441. Of the projected expenditures, $20.25 million is intended to be spent on instructional costs, $8.25 million is apportioned to benefits, and $4.6 million is to be spent on general support. The $4 million balance is projected to cover expenditures associated with transportation, debt service, and interfund transfers.

The primary sources of revenue to the Port Jefferson Union Free School District are real property taxes and payments in lieu of taxes (PILOT) – projected to total $30 million during the current academic year. An additional $3.6 million is projected to be levied through state aid, and the $3.5 million balance is projected to be levied through the appropriated fund balance, local revenue and the Suffolk County tax reserve.

Similar to municipal budgets, school district budgets are projected to be balanced. A closer examination of the audited and reported 2008[7] Port Jefferson Union Free School District financial data reveals that the district generated $42.3 million. Of this, over $26.5 million was

[7] As of the date of submission of this analysis, this represents the most current year that such detailed financial data is available.

levied through property taxes and assessments, nearly $4.1 million from state aid and approximately $595,000 from federal aid. In 2008, expenditures totaled $36.8 million, which included nearly $21 million for education expenses and $7.3 million for employee benefits. The school district generated more than it spent, creating a $5.5 million surplus in 2008. This is reflective of a necessary step in paying off its outstanding debt; as of 2008, the school district was indebted over $12 million.[8]

Table 8
SCHOOL DISTRICT BUDGET

	2008 Actual	2009-10 Adopted
Total Expenditures	$36,834,361	$37,155,441
Total Revenues	$42,344,856	$37,155,441

4.3 Police Department Fiscal Conditions

Suffolk County Police Department provides police protection to the Towns of Babylon, Brookhaven, Huntington, Islip and Smithtown. Water's Edge is located within the confines of the Sixth Precinct, which renders patrol and other police service to northern parts of the Town of Brookhaven, along with the incorporated villages of Belle Terre, Old Field, Poquott, Port Jefferson and Shoreham. The Sixth Precinct is located at 400 Middle Country Road in Selden. In 2008, the Police Department reported a total of 628,257 incidents. While the Police Department does not track the incidents based upon the type of land use, they keep records based on the location. Of the 628,257 incidents, 103,077 were attributed to the Sixth Precinct, and 4,485 were to the Village of Port Jefferson.[9] Suffolk County Police Department expended an estimated $433,126,606 in 2008.[10]

4.4 Fire District Fiscal Conditions

Water's Edge is located within the Port Jefferson Fire District. Port Jefferson Fire Department was established in 1887, and is located at 115 Maple Place in Port Jefferson. The Fire Department is comprised of five companies (Hook and Ladder Company No. 1, Suwassett Engine Hose Company No. 2, Rescue Engine Company No. 3, Patrol and Salvage Company No. 4, and Marine No. 5) with a membership of over 100 volunteer personnel. The Fire Department responds to several specialized rescue incidents, and it is involved in the Brookhaven Town Technical Rescue Task Force and the Heavy Rescue Squad. In 2008, the Fire Department

[8] New York State Office of the State Comptroller, 2008 Report on Financial Data for Local Governments.
[9] Correspondence with the Research and Development Section of the Suffolk County Police Department, December 30, 2009.
[10] *"Choosing the Path for Taxpayer Relief,"* 2009 Recommended Operating Budget: Narrative and Appropriations, County of Suffolk, NY.

responded to a total of 315 calls.[11] While the Fire Department does not track their calls based upon the type of land use, it is estimated that approximately 85-90% of calls are attributed to residences within the district's boundaries.[12] The Fire Department expended $2,048,334 and levied revenues totaling $2,081,312 in 2008.[13]

4.5 Unemployment Trends

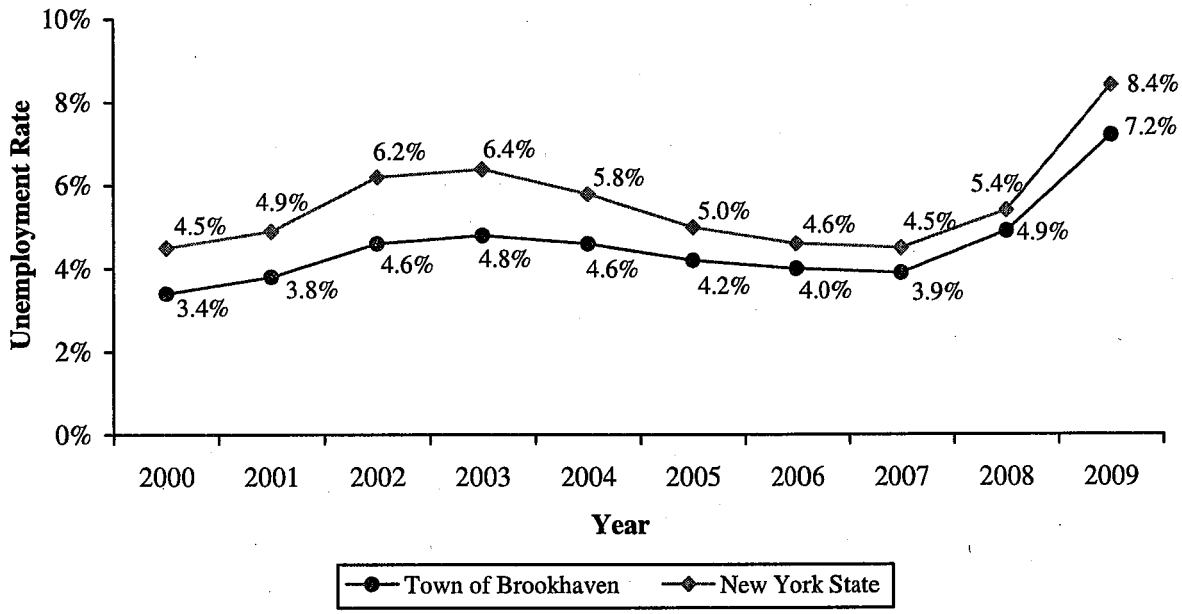
While official unemployment data is unavailable for residents of the Village of Port Jefferson, data from the Town of Brookhaven, Suffolk County and Long Island were compared to that of New York State to illustrate the current economic state of the region. As evidenced in **Table 9** and **Chart 3**, unemployment rates in the Town of Brookhaven have increased substantially over the past two years. According to New York State Department of Labor, the Town's unemployment rate has nearly doubled between 2007 and 2009. In 2009, approximately 18,800 persons – 7.2% of the Town's labor force – are unemployed. Such trends are comparable to those of Suffolk County, Long Island and New York State, indicative of the ongoing economic crisis throughout the state and the nation.

Table 9
UNEMPLOYMENT TRENDS

Year	Town of Brookhaven		Suffolk County		Long Island		New York State	
	Percent	Number	Percent	Number	Percent	Number	Percent	Number
2000	3.4%	8,000	3.4%	25,200	3.4%	47,600	4.5%	415,500
2001	3.8%	9,000	3.8%	28,500	3.8%	53,700	4.9%	449,300
2002	4.6%	11,200	4.7%	35,500	4.7%	67,200	6.2%	577,600
2003	4.8%	11,800	4.8%	36,800	4.8%	68,600	6.4%	595,100
2004	4.6%	11,600	4.7%	36,000	4.6%	67,000	5.8%	544,100
2005	4.2%	10,700	4.2%	33,100	4.2%	61,300	5.0%	475,100
2006	4.0%	10,400	4.0%	31,500	3.9%	58,200	4.6%	438,400
2007	3.9%	10,100	3.9%	30,900	3.8%	56,900	4.5%	433,900
2008	4.9%	12,900	5.0%	39,900	4.9%	72,900	5.4%	526,700
2009	7.2%	18,800	7.3%	57,900	7.1%	106,100	8.4%	813,400

[11] Port Jefferson Fire Department, information accessed via http://www.pjfd.org/.
[12] Correspondence with Chief Fred Leute, December 17, 2009.
[13] New York State Office of the State Comptroller, 2008 Report on Financial Data for Local Governments.

Chart 3
UNEMPLOYMENT TRENDS



4.6 Existing Tax Revenue and Distribution of Subject Property

As evidenced in **Section 4.1** and **Table 6**, the majority of the Village and Town's revenues are levied through property tax generation, which is based upon a rate per $100 assessed valuation of a given parcel. As indicated in **Table 10**, property owners within the Village are currently[14] taxed between $20.70 and $22.02 per $100 assessed valuation of their property, depending on the land use, and whether the property is located within the Business Improvement District.[15] Property owners within this part of the Town of Brookhaven are currently[16] taxed at a rate of $191.742 per $100 of assessed valuation; this accounts for property taxes paid to Port Jefferson Union Free School District, Suffolk County, Suffolk County Police Department, Metropolitan Transportation Authority, the Town of Brookhaven, Port Jefferson Fire District and other local taxing jurisdictions.

According to the 2009 tax bills from the Village of Port Jefferson Receiver of Taxes, the eight parcels that comprise the subject property are assessed at $13,270 (0.72% of $1,843,055). Likewise, the Town of Brookhaven's Receiver of Taxes assesses the subject property at $13,770 (0.77% of $1,788,309). Combined, this translates into a current generation of approximately

[14] The Village of Port Jefferson's fiscal year is between June 1, 2009 through May 31, 2010.
[15] According to Robert Juliano, Village of Port Jefferson Administrator/Clerk, residential properties are taxed at a rate of $1.00, and commercial properties located within the boundaries of the Port Jefferson Business Improvement District are taxed at a rate of $1.32 per $100 assessed valuation. Commercial properties located outside of the boundaries of the Port Jefferson Business Improvement District are not taxed for this purpose.
[16] The Town of Brookhaven's fiscal year is between December 1, 2009 and November 31, 2010.

$28,895 in property tax revenues. Of this, $16,161 or 55.9% of the total taxes generated by the site are distributed to the Port Jefferson Union Free School District, and $1,510 or 5.2% of the taxes are allocated to the Library District. An additional $4,969 or 17.2% of the total tax revenues are distributed to Suffolk County, which includes the County Police Department and the Metropolitan Transportation Authority. The Village of Port Jefferson levies $2,758, comprising 9.5% of the total tax generation. Approximately 3.2% of the tax revenue is levied to the Port Jefferson Fire District, and the balance of the current property tax revenues are apportioned to various local and Town taxing jurisdictions, as seen in **Table 10**.

Table 10
EXISTING TAX REVENUES

Taxing Jurisdiction	Current Tax Rate (per $100 Assessed Valuation)	Current Tax Revenue	Percent of Total Tax Revenue
Total: School Tax	**128.333**	**$17,671**	**61.2%**
School District - Port Jefferson Union Free	117.367	$16,161	55.9%
Library District - Port Jefferson Union Free	10.966	$1,510	5.2%
Total: County Tax	**36.089**	**$4,969**	**17.2%**
County of Suffolk	2.861	$394	1.4%
County of Suffolk - Police	33.060	$4,552	15.8%
New York State MTA Tax	0.168	$23	0.1%
Total: Town Tax	**7.054**	**$971**	**3.4%**
Town General - Town Wide Fund	4.464	$615	2.1%
Highway - Town Wide Fund	2.590	$357	1.2%
Total: Village Tax	**20.70 – 22.02**	**$2,758**	**9.5%**
Village of Port Jefferson	20.70	$2,747	9.5%
Port Jefferson Business Improvement District	0.00 – 1.32	$11	< 0.1%
Total: Other Tax	**20.266**	**$2,525**	**8.7%**
$100M Bond Act of 2004	1.588	$219	0.8%
Fire District - Port Jefferson	6.626	$912	3.2%
County Sewer No 1 - Port Jefferson Ext.	4.996	$422*	1.5%
Real Property Tax Law - Article 7	0.935	$129	0.4%
Real Property Tax Law	6.121	$843	2.9%
TOTAL: ALL TAXING JURISDICTIONS	**212.442**	**$28,895**	**100.0%**

* Note: Property taxes are not levied to the County Sewer District by the following parcels: 206-011-6-18, 19, 20, and 21.1.

5.0 ANTICIPATED FISCAL IMPACTS

5.1 General Impacts

An analysis of new housing occupancy estimates allows for the determination of the population that would likely reside within Water's Edge. According to residential demographic multipliers published by the Center for Urban Policy Research at Rutgers University, and as seen in **Table 11**, a newly constructed one-bedroom, renter-occupied residence with five or more units, with rent valued at greater than $1,000 per month and located in New York State would generate approximately 1.67 persons. Of this new housing occupancy, it is estimated that 0.08 persons would be infants or toddlers, ranging between 0 and 4 years of age, 0.08 persons would be school-aged, or between five and 17 years old, and 1.51 persons would be adults aged 18 and older. Likewise, a newly constructed two-bedroom, renter-occupied residence with five or more units, with rent valued at greater than $1,100 per month and located in New York State would generate approximately 2.31 residents, of which 0.19 persons would be infants or toddlers, an additional 0.23 persons would be school-aged and 1.89 persons would be over the age of 18 years old.

Given these assumptions and the proposed unit mix, it is projected that the development of Water's Edge will create an additional 95 residents. As seen in **Table 11**, approximately 67 persons will reside within the one-bedroom units, and 24 persons would reside within the two-bedroom units. Of the 95 new residents, it is projected that six persons would be infants/toddlers, six persons would be school-aged and 83 persons would be adults. The relatively small number of school-aged children anticipated to reside at Water's Edge is reflective of the type of households that typically reside within one- and two-bedroom apartment units.

Table 11
PROJECTED IMPACT ON POPULATION

	1-BR Units	2-BR Units	Total: Water's Edge
Number of Units	42	10	**52**
Average Infants/Toddlers per Household	0.08	0.19	--
Average School-Aged Children per Household	0.08	0.23	--
Average Adults per Household	1.51	1.89	--
Projected New Residents	**71**	**24**	**95**
Infants/Toddlers	3.36	1.90	**6**
School-Aged Children	3.36	2.30	**6**
Adults	63.42	18.9	**83**

5.2 Municipal Fiscal Impacts

Many of the Town and County's community services and facilities are supported in large part by the revenues generated through property taxes. The Town of Brookhaven and Suffolk County, as well as other local taxing jurisdictions will greatly benefit from an increase in such property tax revenues, resulting from the development and operations of Water's Edge.

For the purpose of this analysis, it is necessary to determine the assessed valuation for Water's Edge. The value was determined based upon estimated building construction and land acquisition and development costs.[17] Given these assumptions, and as seen in **Table 12**, the total estimated market valuation is approximately $13 million. After applying an equalization rate and an assessment rate per $100 of the project's market valuation, the estimated assessed valuation of the project upon full build-out and occupancy is $100,100.

Table 12
ESTIMATED ASSESSED VALUATION

Total Estimated Market Valuation	$13,000,000
Equalization Rate	0.77%
Total Estimated Assessed Valuation	**$100,100**

Current tax and equalization rates can be applied to the assessed valuation in order to accurately project the impact that the development will have on the local tax base. **Table 13** shows the current tax rates and revenues levied from full build-out of the proposed development. The information provided in the table was derived from the current assessment factors and tax rates provided by the Town of Brookhaven's Receiver of Taxes, as well as the total projected assessed valuation for the development upon full build-out. It is important to note that all analyses are based on current tax dollars, and the revenue allotted among taxing jurisdictions will vary from year to year, depending on the annual tax rates, assessed valuation and equalization rates. Further, the final assessment and levy will be determined by the sole assessor at the time of occupancy. Projections included herein are as accurate as possible using fiscal impact methodologies, for the purpose of the planning and the land use approval process.

[17] Construction costs, as well as costs associated with the land development provided by Islander Boat Center, on July 30, 2009. It is important to note that all costs are estimates based upon market conditions as of the date of submission of this analysis.

Table 13
ANTICIPATED TAX REVENUE GENERATION

Taxing Jurisdiction	Current Tax Revenue	Projected Tax Revenue	Change in Tax Revenue	Percent of Total Tax Revenue
Total: School Tax	**$17,671**	**$128,461**	**$110,790**	**60.9%**
School District - Port Jefferson Union Free	$16,161	$117,484	$101,323	55.7%
Library District - Port Jefferson Union Free	$1,510	$10,977	$9,467	5.2%
Total: County Tax	**$4,969**	**$36,125**	**$31,156**	**17.1%**
County of Suffolk	$394	$2,864	$2,470	1.4%
County of Suffolk - Police	$4,552	$33,093	$28,541	15.7%
New York State MTA Tax	$23	$168	$145	0.1%
Total: Town Tax	**$971**	**$7,061**	**$6,090**	**3.3%**
Town General - Town Wide Fund	$615	$4,468	$3,854	2.1%
Highway - Town Wide Fund	$357	$2,593	$2,236	1.2%
Total: Village Tax	**$2,758**	**$20,773**	**$18,015**	**9.9%**
Village of Port Jefferson	$2,747	$20,721	$17,974	9.8%
Port Jefferson Business Improvement District	$11*	$52*	$41*	< 0.1%*
Total: Other Tax	**$2,525**	**$18,386**	**$15,861**	**8.7%**
$100M Bond Act of 2004	$219	$1,590	$1,371	0.8%
Fire District - Port Jefferson	$912	$6,633	$5,720	3.1%
County Sewer No 1 - Port Jefferson Ext.	$422**	$3,101**	$2,678**	1.5%**
Real Property Tax Law - Article 7	$129	$936	$807	0.4%
Real Property Tax Law	$843	$6,127	$5,284	2.9%
TOTAL: ALL TAXING JURISDICTIONS	**$28,895**	**$210,806**	**$181,911**	**100.0%**

* Note: According to Robert Juliano, Village of Port Jefferson Administrator/Clerk, it is unknown how Water's Edge will be taxed as it pertains to the Port Jefferson Business Improvement District. For the purpose of this analysis, it is assumed that each residential unit will be taxed at a rate of $1.00.

** Note: Property taxes are not levied to the County Sewer District by the following parcels: 206-011-6-18, 19, 20, and 21.1. However, for the purpose of this analysis, and upon full build-out, it is assumed that Water's Edge will generate property taxes for this taxing jurisdiction. As such, the percent of total tax revenue has shifted to reflect this change in the tax levy.

The proposed project will significantly increase taxes generated by the site, resulting in a substantial rise in tax revenues distributed to each taxing jurisdiction. At full build-out, the proposed project is projected to generate $210,806 in annual taxes. This represents a net increase of nearly $182,000 per year – over seven times the revenues generated under existing site conditions.

Upon full build-out, Water's Edge will levy over $117,000 to the Port Jefferson Union Free School District, representing 55.7% of the total tax generated by the site. Likewise, the proposed development will levy nearly $11,000 to the Library District, comprising 5.2% of the tax levy. Suffolk County – which includes taxes generated for both the County Police Department and the Metropolitan Transportation Authority – is projected to levy $36,125, comprising 17.1% of the total generation. Moreover, the Town of Brookhaven is projected to generate over $7,000 in annual property tax revenues under the proposed development, representing 3.3% of the tax

generation. This includes the general and highway Town wide funds. The Village of Port Jefferson will levy $20,773, of which $52 is projected to be raised by the Business Improvement District. An additional $18,386, or 8.7%, will be generated by the proposed development and distributed among the Town's special taxing jurisdictions, including the $100M Bond Act of 2004, the Port Jefferson Fire District, the County Sewer District, the Real Property Tax Law-Article 7, and the Real Property Tax Law.

5.3 School District Fiscal Impacts

As seen in **Section 4.2**, 90.2% of all school-aged children residing within Long Island attend public schools; the remaining 9.8% of school-aged children attends nonpublic schools (including private, home, and other type of schooling). For the purpose of this analysis, and when applying this factor to the six students projected to reside within Water's Edge, one student is projected to attend nonpublic schools; the remaining five students are likely to attend public schools.

There are many nonpublic schooling options available to students in Suffolk County, and as such it is unknown where the one student is likely to enroll. However, the five students likely to attend public schools would be enrolled within the Port Jefferson Union Free School District. Due to proximity and enrollment trends, students enrolled between Kindergarten and Grade 5 would likely attend the Edna Louise Spear Elementary School. Students enrolled in Grades 6-8 would attend the Port Jefferson Middle School and students in ninth through twelfth grade would attend the Earl L. Vandermeulen High School.

As illustrated in **Section 4.2**, the ratio of special education students to the total enrollment at Port Jefferson Union Free School District is approximately 9.6%. For lack of any other statistics to use as a basis for projection, it is assumed that the portion of special education students will remain constant with the development of the proposed project. When applied to the five school-aged children that are projected to attend public schools, this results in less than one-half of a student that would require enrollment within the district's special education program. As such, it is assumed that all five students would be enrolled within the general education program at Port Jefferson Union Free School District.

The five new general education students will result in additional costs to the Port Jefferson Union Free School District. According to the New York State School Report Card, Fiscal Accountability Supplement for Port Jefferson Union Free School District, expenditures averaged $15,371 per general education student during the 2007-08 academic year. Given these assumptions, it is estimated that the five students will cost the school district $76,855 per academic year. However, as seen in **Table 14** (and as presented in greater detail in the following section), it is estimated that the school district will revenue $117,484 in taxes – covering the associated expenses incurred by the additional five students. This results in a net revenue to the Port Jefferson Union Free School District of approximately $40,629 per year.

Table 14
FISCAL IMPACT ON SCHOOL DISTRICT

Parameter	Impact
Number of Additional Students	6
Nonpublic School Students	*1*
General Education Students	*5*
Special Education Students	*0*
Expenditure per Pupil	--
Nonpublic School Students	*N/A*
General Education Students	*$15,371*
Special Education Students	*$46,311*
Additional Expenditures Incurred by District	$76,855
Projected Tax Revenue Allocated to Schools	$117,484
Net Revenue on School District	**$40,629**

5.4 Police Department Fiscal Impacts

According to the Suffolk County Police Department, the exact impact of Water's Edge is difficult to determine, as there is no single determining factor utilized in the decision to deploy a set number of Officers to a given area.[18] Factors such as demographics, traffic patterns, police hazards and emergency response time are variables which require consideration.

The project is not expected to result in significant adverse impacts on the ability of the Suffolk County Police Department to respond to emergency and/or security calls. The proposed project will be built in conformance with current New York State building codes, with site security and lighting. Moreover, the development will have a secure parking garage, and controlled access to residences through a keyed door.

A significant increase in tax revenues to the Suffolk County Police Department would occur; there would be an estimated increase of approximately $33,093 per year, to offset some of the increased cost of services. It was noted that the Police Department will adapt as necessary to protect and serve the community as it grows.[19]

5.5 Fire District Fiscal Impacts

As of the date of preparation of this document, no response letter has been received from the Port Jefferson Fire Department. However, correspondence with the Fire Department indicated that the exact impact of the proposed project is difficult to quantify, as there are many factors that influence the demand for fire-protective services.[20] However, it is not anticipated that the project will result in significant adverse impacts on the ability of the Port Jefferson Fire Department to respond to emergency calls, fires, and/or accidents or health-related issues. The proposed project

[18] Letter of response from William J. English, Principal Management Analyst, Research and Development Section 2110, Suffolk County Police Department; November 9, 2009.
[19] Letter of response from William J. English, Principal Management Analyst, Research and Development Section 2110, Suffolk County Police Department; November 9, 2009.
[20] Correspondence with Chief Fred Leute, December 17, 2009.

will be built in conformance with current New York State building and fire codes, and all units will be sprinklered with fire/smoke detectors.

The Port Jefferson Fire Department is anticipated to receive $20,721 in annual tax revenue to supplement their budget and assist with the costs associated with the provision of fire protective services.

6.0 ANTICIPATED ECONOMIC IMPACTS

Construction of Water's Edge is anticipated to commence during the first quarter of 2012, and is expected to last approximately 18 to 24 months in duration.[21] It is anticipated that the construction will be complete during the fourth quarter of 2013. Upon culmination of the construction period, Water's Edge will operate 52 luxury apartment units and 4,157 square feet of general office space.

It is projected that the construction and operations of Water's Edge will contribute positively to the local economy. During the construction period, opportunities for employment will offer direct, indirect and induced benefits among businesses and households located throughout the region. During the operation of the development, long term jobs will also offer direct, indirect and induced benefits to the Village of Port Jefferson, the Town of Brookhaven, Suffolk County and the region as a whole. The new jobs created during both construction and operation of the development will help to increase business and household income in the community. In turn, as spending increases, this creates additional jobs and further increases business and household income throughout Suffolk County.

A detailed analysis of direct, indirect and induced impacts (as defined in **Section 2.0**) generated during the construction period is outlined in **Section 6.1**. It is important to note that each of these impacts are temporary, projected to occur only while the proposed project is being constructed. Economic impacts generated during operations, however, are permanent and on-going and they are projected on an annual basis, assuming continued stabilized operations. A detailed analysis of direct, indirect and induced impacts during annual operations is described in **Section 6.2.**

6.1 Economic Impacts of Construction

During the construction period, *output* refers to the investment, or total costs associated with the construction of Water's Edge. The construction period is projected to represent a total of $13 million in investment. This output includes hard and soft construction costs, land development and other costs associated with the development of 52 luxury rental units and 4,157 square feet of general office space. The $13 million in direct output is projected to generate an indirect impact of nearly $3.6 million, and an induced impact of over $3.4 million, bringing the total economic impact on output to over $20 million during the construction period.[22] A summary of the top industries affected during the construction period, sorted by the total impact on output is provided in **Table 15**.

[21] Construction schedule provided by Islander Boat Center, on September 16, 2009. For the purpose of this analysis, a construction period of 21 months is assumed.

[22] According to IMPLAN, a multiplier of 1.546990 represents the total dollar change in output that occurs in all industries for each additional dollar of output delivered to final demand through the "Construction of new residential permanent site single- and multi-family structures" (IMPLAN Sector 37) in Suffolk County, New York.

Table 15
TOP INDUSTRIES AFFECTED DURING CONSTRUCTION PERIOD, BY TOTAL IMPACT ON OUTPUT

Sector	Output (Revenue)	Employment (Number of Jobs)	Labor Income (Wages)
37: Construction of new residential permanent site single- and multi-family structures	$13,000,000	45.9	$5,188,205
361: Imputed rental activity for owner-occupied dwellings	$639,887	0	$0
319: Wholesale trade businesses	$592,346	2.7	$224,122
369: Architectural, engineering, and related services	$321,435	2.3	$189,747
360: Real estate establishments	$301,078	1.8	$49,651

During the construction period, direct *employment* refers to the number of short-term jobs necessary to build the 52 luxury apartment units and 4,157 square feet of general office space. It is projected that the construction period will necessitate 45.9 full time equivalent (FTE) employees. It is assumed that the same basic construction crew will be utilized from the commencement until the culmination of construction. Since it is the policy of the Suffolk County Industrial Development Agency (SCIDA) to encourage the use of local labor during construction of this and other projects throughout the County, it is likely that the majority of these construction workers will be hired from within the local labor force.

Direct employment creates additional opportunities for job creation throughout other sectors of the economy through expenditures derived from labor income and output. As such, the 45.9 FTE jobs created during the construction period will have an indirect impact of 24 FTE employees and an induced impact of 23.3 FTE employees in other industry sectors, bringing the total impact of construction to 93.2 FTE jobs during the construction period.[23] This job creation – direct, as well as indirect and induced – is most crucial during Long Island's current economic state, and presents significant opportunities for the thousands of persons who are unemployed throughout the region. A summary of the top industries affected during the construction period, sorted by the total impact on employment is provided in **Table 16**.

[23] According to IMPLAN, a multiplier of 11.167791 represents the total change in the number of jobs that occurs in all industries for each additional one million dollars of output delivered to final demand through the "Construction of new residential permanent site single- and multi-family structures" (IMPLAN Sector 37) in Suffolk County, New York.

Table 16
TOP INDUSTRIES AFFECTED DURING CONSTRUCTION PERIOD, BY TOTAL IMPACT ON EMPLOYMENT

Sector	Output (Revenue)	Employment (Number of Jobs)	Labor Income (Wages)
37: Construction of new residential permanent site single- and multi-family structures	$13,000,000	45.9	$5,188,205
324: Retail Stores - Food and beverage	$247,087	3.4	$104,364
319: Wholesale trade businesses	$592,346	2.7	$224,122
369: Architectural, engineering, and related services	$321,435	2.3	$189,747
413: Food services and drinking places	$134,509	2.1	$50,438

During the construction period, direct *labor income* refer to the earnings, wages, or salary paid to each of the construction workers. It is noted that labor income typically comprises 40% of the total cost of construction; the remaining 60% represents the cost of construction materials. It is the policy of the SCIDA to encourage the payment of the area standard wage during construction of this and other projects throughout Suffolk County. As such, and assuming wages remain constant (with the exception of a 3% annual inflation adjustment) through the construction period, each of the construction workers will earn the projected average wage of $63,837 in 2012 and $65,752 in 2013.[24] This represents nearly $5.2 million in collective earnings among the 45.9 FTE employees over the construction period. This labor income is projected to have an indirect impact of $1.4 million and an induced impact of over $1.1 million, bringing the total impact of the construction to over $7.7 million in labor income.[25] A summary of the top industries affected during the construction period, sorted by the total impact on labor income is provided in **Table 17.**

[24] New York State Department of Labor's Quarterly Census of Employment and Wages reports an average wage of $58,420 among those employed within the construction industry in the Long Island labor market in 2008. For the purpose of this analysis, an additional annual inflation factor of three percent was applied to the average wage, to reflect wages during the construction period.

[25] According to IMPLAN, a multiplier of 0.603716 represents the total dollar change in labor income of households employed by all industries for each additional dollar of output delivered to final demand through the "Construction of new residential permanent site single- and multi-family structures" (IMPLAN Sector 37) in Suffolk County, New York.

Table 17
TOP INDUSTRIES AFFECTED DURING CONSTRUCTION PERIOD, BY TOTAL IMPACT ON LABOR INCOME

Sector	Output (Revenue)	Employment (Number of Jobs)	Labor Income (Wages)
37: Construction of new residential permanent site single- and multi-family structures	$13,000,000	45.9	$5,188,205
319: Wholesale trade businesses	$592,346	2.7	$224,122
369: Architectural, engineering, and related services	$321,435	2.3	$189,747
394: Offices of physicians, dentists, and other health practitioners	$206,355	1.7	$122,743
320: Retail Stores - Motor vehicle and parts	$196,489	1.9	$118,035

A summary of the derivation of the collective economic benefits during the construction period is provided in **Table 18**.

Table 18
ECONOMIC IMPACTS OF CONSTRUCTION

Impact Type	Output (Revenue)	Employment (Number of Jobs)	Labor Income (Wages)
IMPLAN Sector 37: Construction of new residential permanent site single- and multi-family structures			
Direct Impact	$13,000,000	45.9	$5,188,205
Indirect Impact	$3,595,496	24	$1,413,338
Induced Impact	$3,427,257	23.3	$1,119,956
Total Impact	$20,022,750	93.2	$7,721,498

6.2 Economic Impacts of a Stabilized Year of Operations

For the purpose of this analysis, it is assumed that Water's Edge will begin the operational phase of development upon the completion of construction, anticipated to occur during the fourth quarter of 2013. A stabilized year of operations, however, is not projected to occur until the majority of units are leased and occupied. This is anticipated to occur in 2014. At this time, it is assumed that Water's Edge will be operating at near full occupancy, with most of the luxury apartment units and the office space rented and occupied.

During operations, direct *output* refers to the total revenues derived from the annual operation of Water's Edge. This includes monthly rent from residents of the luxury apartment units and annual leases from tenants of the office space. As seen in **Table 19**, output is estimated at $1,400 – 1,600 per month for the one-bedroom units and $1,800 – $2,000 per month for the two-bedroom units. Output will also be generated in the form of annual leases generated from

tenants of the office space; these are estimated at $25 per square foot.[26]

Table 19
PROJECTED ANNUAL OUTPUT

Type of Development	Number of Units	Size	Number of Units at 90% Occupancy	Rent/Lease Rate	Annual Revenue
1-BR Units	2	600	2	$1,400	$33,600
	2	655	2	$1,433	$34,392
	24	695	22	$1,466	$387,024
	2	700	2	$1,500	$36,000
	8	790	7	$1,533	$128,772
	2	820	2	$1,566	$37,584
	2	845	2	$1,600	$38,400
2-BR Units	6	1,015	5	$1,800	$108,000
	3	1,580	3	$1,900	$68,400
	1	1,850	1	$2,000	$24,000
General Office Space	--	4,157 SF	4,157 SF	$25/SF/year	$103,925
Total: Water's Edge	**52 Apartments, 4,157 SF Office Space**		**48 Apartments, 4,157 SF Office Space**	**--**	**$1,000,097**

Assuming a 90% occupancy rate during a stabilized year of operations, Water's Edge is projected to generate approximately just over $1 million in annual operational revenues. The $1 million in direct operational revenues is projected to generate an indirect impact of $158,342 and an induced impact of $277,558 per year. This additional output is generated through round-by-round sales made at various merchants in other sectors of the regional economy. These include local retailers, service providers, banks, grocers, restaurants, financial institutions, insurance companies, health and legal services providers, and other establishments in the region. The sum of the direct, indirect and induced impacts results in a total economic impact on output of over $1.4 million during annual operations.[27] A summary of the top industries affected during annual operations, sorted by the total impact on output is provided in **Table 20**.

[26] Rental rates and lease revenue provided by Islander Boat Center, on November 4, 2009.
[27] According to IMPLAN, a multiplier of 1.280874 represents the total dollar change in output that occurs in all industries for each additional dollar of output delivered to final demand by "Real Estate Establishments" (IMPLAN Sector 360) in Suffolk County, New York.

Table 20
TOP INDUSTRIES AFFECTED DURING ANNUAL OPERATIONS, BY TOTAL IMPACT ON OUTPUT

Sector	Output (Revenue)	Employment (Number of Jobs)	Labor Income (Wages)
360: Real estate establishments	$1,056,002	8.3	$499,770
361: Imputed rental activity for owner-occupied dwellings	$53,877	0.0	$0
319: Wholesale trade businesses	$18,364	0.1	$7,017
31: Electric power generation, transmission, and distribution	$17,536	< 0.1	$3,391
357: Insurance carriers	$16,592	< 0.1	$4,334

During operations, direct *employment* refers to the number of persons that are employed by Water's Edge. It is estimated that the development will generate eight FTE employees during annual operations. In addition to those employed at the general office space, this employment is likely to include a property manager, an office/leasing manager, maintenance and groundskeeping staff, and administrative support needed for the daily operations of Water's Edge. The eight FTE direct employment positions are projected to result in an indirect impact of 0.9 FTE jobs, and an induced impact of 1.7 FTE jobs throughout the region, bringing the total impact of operational employment to roughly 10.6 FTE jobs during annual operations.[28] A summary of the top industries affected during annual operations, sorted by the total impact on employment is provided in **Table 21**.

Table 21
TOP INDUSTRIES AFFECTED DURING ANNUAL OPERATIONS, BY TOTAL IMPACT ON EMPLOYMENT

Sector	Output (Revenue)	Employment (Number of Jobs)	Labor Income (Wages)
360: Real estate establishments	$1,056,002	8.3	$499,770
413: Food services and drinking places	$10,481	0.2	$4,339
388: Services to buildings and dwellings	$14,414	0.2	$7,055
394: Offices of physicians, dentists, and other health practitioners	$15,907	0.1	$10,102
397: Private hospitals	$13,293	0.1	$7,032

[28] According to IMPLAN, a multiplier of 8.039323 represents the total change in the number of jobs that occurs in all industries for each additional one million dollars of output delivered to final demand by "Real Estate Establishments" (IMPLAN Sector 360) in Suffolk County, New York.

During operations, direct *labor income* refers to annual wages, earnings or salary that is paid to the eight FTE employees during annual operations at Water's Edge. Collectively, this represents over $490,000 in labor income among the eight FTE employees. This direct labor income is projected to result in an indirect impact of $54,681 and an induced impact of $91,927, bringing the total economic impact of labor income to $637,259 during annual operations.[29] A summary of the top industries affected during annual operations, sorted by the total impact on labor income is provided in **Table 22**.

Table 22
TOP INDUSTRIES AFFECTED DURING ANNUAL OPERATIONS, BY TOTAL IMPACT ON LABOR INCOME

Sector	Output (Revenue)	Employment (Number of Jobs)	Labor Income (Wages)
360: Real estate establishments	$1,056,002	8.3	$499,770
394: Offices of physicians, dentists, and other health practitioners	$15,907	0.1	$10,102
388: Services to buildings and dwellings	$14,414	0.2	$7,055
397: Private hospitals	$13,293	0.1	$7,032
319: Wholesale trade businesses	$18,364	0.1	$7,017

A summary of the derivation of the collective economic benefits during a stabilized year of operations is provided in **Table 23**.

Table 23
ECONOMIC IMPACTS OF A STABILIZED YEAR OF OPERATIONS

Impact Type	Output (Revenue)	Employment (Number of Jobs)	Labor Income (Wages)
IMPLAN Sector 360: Real Estate Establishments			
Direct Impact	$1,000,097	8	$490,651
Indirect Impact	$158,342	0.9	$54,681
Induced Impact	$277,558	1.7	$91,927
Total Impact	$1,435,997	10.6	$637,259

[29] According to IMPLAN, a multiplier of 0.260944 represents the total dollar change in labor income of households employed by all industries for each additional dollar of output delivered to final demand by "Real Estate Establishments" (IMPLAN Sector 360) in Suffolk County, New York.

7.0 CONCLUSION

At present, there are a limited number of luxury apartments within the region, especially those with close proximity and views of the water. Islander Boat Center seeks to address this limitation through the development of 52 apartment units and 4,157 square feet of general office space at Water's Edge in the Village of Port Jefferson.

The proposed project will increase the distribution of tax ratables throughout the Port Jefferson Union Free School District, the Town of Brookhaven and Suffolk County, and generate permanent employment opportunities for the Town of Brookhaven and area residents. Such fiscal and economic benefits are most crucial during the current economic state throughout Long Island and the nation as a whole.

The development at Water's Edge is projected to create strong fiscal and economic activity through the provision of jobs, housing opportunities and an improved tax base. As seen in **Section 5.0**, the proposed project will have a beneficial impact on local fiscal conditions through the increased distribution of tax ratables throughout the Port Jefferson Union Free School District, the Town of Brookhaven and Suffolk County. At full build-out, the proposed project is projected to generate $210,806 in annual property taxes. This represents a net increase of nearly $182,000 per year – over seven times the revenues generated under existing site conditions. These annual property taxes will be distributed among all local taxing jurisdictions throughout the Town.

Moreover, as seen in **Section 6.0**, it is projected that the construction and annual operations of Water's Edge will contribute positively to the local economy. The proposed project will generate both immediate and permanent employment opportunities for the Town of Brookhaven and area residents. During the construction period, opportunities for employment will offer direct, indirect and induced benefits for residents of the Village of Port Jefferson, the Town of Brookhaven, as well as for those residing throughout the region. During the operation of the development, long term jobs will also offer direct, indirect and induced benefits to the Village of Port Jefferson, the Town of Brookhaven, Suffolk County and the region as a whole. The new jobs created during both construction and operation of Water's Edge will help to increase business and household income in the community. In turn, as spending increases, this creates additional jobs and further increases business and household income.

EXHIBIT E-3

Greater Port Jefferson Chamber of Commerce Letter

GREATER PORT JEFFERSON
CHAMBER OF COMMERCE

March 1, 2017

Lisa M.G. Mulligan
Director of Economic Development
CEO Brookhaven Industrial Development Agency
CEO Brookhaven Local Development Corporation
Town of Brookhaven
One Independence Hill
Farmingville, NY 11738
Phone: 631 451-6563
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The Greater Port Jefferson Chamber of Commerce is in favor of the proposed 52 luxury rental apartments being built by the Northwind Group LLC in the Village of Port Jefferson, located on 25A.

The addition of the 'Overbay' apartments will add needed housing for our desired geographical area.

Keeping in mind that all regulatory agencies are reviewing this application and they take into consideration the quality of life issues that this project will have with our community and residents, the Chamber sees these efforts are in alignment with our mission statement, for 'promoting economic development and commerce'. Specifically our Chamber Partners should benefit with an increase of business, whether this new influx of residents shop in the retail stores, use services or dine in the restaurants. In addition this project will add new positive aesthetics and enhance our western gateway on the current property that is blighted.

Thank you,

Board of Directors, Greater Port Jefferson Chamber of Commerce

EXHIBIT E-4

New York Law Journal Article, dated March 22, 2017 on Eligibility of Residential Developments for IDA Benefits

New York Law Journal
Real Estate Trends
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ZONING AND LAND USE PLANNING

Eligibility of Residential Developments for IDA Benefits

By Anthony S. Guardino



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

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

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

The court was not persuaded and decided, instead, that the casino facility was a commercial project under the IDA Act and, in particular, that it also was a recreation facility within the purview of GML Section 854(9).

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

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

The IDA Act

When the legislation governing the creation, organization, and powers of IDAs in New York State was enacted in 1969, it provided that its general purpose was "to promote the economic welfare of [the state's] inhabitants and to actively promote, attract,

encourage and develop economically sound commerce and industry through governmental action for the purpose of preventing unemployment and economic deterioration." This intent was further evidenced by the original provision of GML Section 858, which provided that:

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

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

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

The original legislation has been amended a number of times since 1969 to broaden the scope of permissible IDA activities. For example, the definition of project was expanded to specifically include construction of industrial pollution control facilities (L 1971, ch 978), winter recreation facilities and then recreation facilities generally (L 1974, ch 954; L 1977, ch 630), horse racing facilities (L 1977, ch 267), railroad facilities (L 1980, ch 803) and educational or cultural facilities (L 1982, ch 541).

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

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

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

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

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

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

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

The decision by the Nassau County Supreme Court in *Matter of Ryan* provides further confirmation that

residential developments certainly are eligible to receive IDA benefits.

'Matter of Ryan'

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

The financial benefits and assistance granted by the TOHIDA included:

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

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

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

The court agreed with the respondents and dismissed the petition.

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

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

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

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

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

Conclusion

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

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EXHIBIT E-5

Ryan et al. v. Town of Hempstead Industrial Development Agency et al.

SHORT FORM ORDER

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

P R E S E N T : HON. JEFFREY S. BROWN
JUSTICE

----------X TRIAL/IAS PART 13

In the Matter of DONALD L. RYAN, FLAVIA IANNACCONE, JAMES DENON, JOHN M. WILLAMS, REGINAL LUCAS and ROBERT DeBREW, JR.,

Petitioners,

INDEX # 5324/16

Mot. Seq. 1
Mot. Date 9.13.16
Submit Date 11.17.16

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

XXX

-against-

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

Respondents.

----------X

The following papers were read on this motion: Papers Numbered

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

Application by petitioners pursuant to Article 78 to invalidate as *ultra vires* and to void the May 18, 2016 resolution passed by the Town of Hempstead Industrial Development Agency (TOHIDA) is decided as hereinafter provided.

In this Article 78 proceeding, petitioners seek to invalidate the resolution passed by respondent TOHIDA on May 18, 2016, which granted financial and tax benefits and assistance to respondent Renaissance Downtowns UrbanAmerica, LLC (Renaissance) *vis-a-vis* construction of a new 336 unit residential apartment complex on the northwest corner of the intersection of Washington and Front Streets (Phase 1 of the multi-phase Village of Hempstead downtown revitalization project[1] which was planned to include additional mixed use buildings/parking facilities). The Phase I property was a tax exempt Village property for at least 50 years until December 15, 2015 when it was acquired by respondent Renaissance.

The financial benefits and assistance granted include:

> exemptions from mortgage recording taxes for one or more mortgages securing the principal amount not to exceed $70,000,000;
>
> sales and use tax exemption up to $3,450,000 in connection with the purchase/lease of building materials, services or other personal property for the project;
>
> abatement of real property taxes for an initial term of ten years pursuant to Payment in Lieu of Taxes Agreement (PILOT).

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

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

The alleged flaws are not fatal and do not provide a basis for dismissal. Petitioners have standing to maintain an action for equitable or declaratory relief under State Finance Law § 123-b *vis-a-vis* the issue of whether the project herein falls within the definition of a "project" for which IDA benefits may be granted (*see Nearpass v Seneca County Idus. Dev. Agency*, 52 Misc 3d 533 [Sup Ct, Seneca County 2016 Falvey, J.]; *Dudley v. Kerwick*, 52 NY2d 542 [1981]; *cf.*

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[1]The development as outlined in the Appraisal Report (Exhibit "2" to the Petition) was approved in a unanimous 5-0, bi-partisan vote by the Village of Hempstead Board. It includes the construction of , among other things: residential units, structured parking, retail space, medical office building, mixed used artist loft with grade and basement level supermarket, surface parking office space, senior independent living apartment building, hotel and restaurant space.

Kadish v. Roosevelt Raceway Assoc., 183 AD2d 874, 875 [2d Dept 1992] [no standing under State Finance Law § 123-b (1) to challenge financing and acquisition of property by TOHIDA through bond issuance because statute specifically excludes bond issuance by a public benefit corporation). Further, the *ultra vires* issue was, in fact, raised in the administrative proceeding before respondent TOHIDA (Record: Vol, 3 Tab 25, pp 113-114), and the Nassau County Regional Office of the New York State Attorney General rejected service of the petition on the ground that the office did not represent respondent TOHIDA.

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

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

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

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

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

According to respondents, the development of a residential rental building falls within the ambit of the statutory definition of a project,[2] entitled to financial assistance and benefits, as set forth in § 854(4) of the General Municipal Law in that it "promotes employment opportunities and prevents economic deterioration in the area served by the industrial development agency" (Opns. St. Comp. No. 85-51 [N.Y.S. Cptr., 1985 WL 25843]).

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

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

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

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

> (a) The Town of Hempstead is in need of attractive multi-family housing to retain workers in the Town and attract new business;
>
> (b) a healthy residential environment located in the Town of Hempstead is needed in order to further economic growth;
>
> (c) there is a lack of affordable, safe, clean multi-family housing within the Town of Hempstead;
>
> (d) the facility will provide the nucleus of a healthy residential environment, and will be instrumental and vital in the further growth of the Town of Hempstead.

Respondent TOHIDA also found that:

> the acquisition, construction and equipping of the Phase I Facility will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the Town of Hempstead and the State of New York and improve their standard of living and thereby serve the public purposes of the Act;
>
> the project conformed with local zoning laws and planning regulations of the Town of Hempstead; and
>
> the project will not have a significant effect on the environment as determined in accordance with Article 8 of the Environmental Conservation Law and regulations promulgated thereunder.

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

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

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

> "Upon completion, the overall revitalization of the Village of Hempstead will have generated an estimated $4 billion in economic activity, comprised of economic activity during and after the construction period.
>
> Nearly $3 billion of primary and secondary economic activity will be generated from construction of the development encompassing 5 million square feet, comprising 2.8 million square feet of 3,500 residential units and 2.2 million square feet of mixed use, retail, hospitality, office and other commercial uses.
>
> This will result in new socio-economic improvements to the Village of Hempstead that will provide much needed housing for Long Island's young professionals and active adults, and create during the construction period as many as 22,000 temporary construction and secondary jobs generating nearly $1.4 billion in wages.
>
> When completed, the revitalization will create approximately 6,000 permanent and 4,500 secondary jobs generating $498 million in wages of which 1,500 of the permanent jobs generating $125 million in wages projected to be held by Village of Hempstead residents. Thus, in total, the construction activity and resulting permanent jobs and their related secondary economic impacts are expected to generate nearly $4 billion in primary and secondary economic impact, and over the 20 year PILOT period $142 million in new county, town, school and village property taxes, and $43.5 million in new county sales taxes."

In reviewing the actions of an administrative agency, courts must assess whether the determination was the result of an error of law or was arbitrary, capricious, or an abuse of discretion such that the actions at issue were taken without sound basis in reason and without regard to the facts (*Matter of County of Monroe v Kaladjian*, 83 NY2d 185, 189 [1994], citing *Matter of Pell v Bd. of Educ.*, 34 NY2d 222, 231 [1974]; *Akpan v Koch*, 75 NY2d 561, 570-71 [1990]; *Matter of Calvi v Zoning Bd. of Appeals of the City of Yonkers*, 238 AD2d 417, 418 [2d Dept 1997]). The agency's determination need only be supported by a rational basis (*Matter of County of Monroe v Kaladjian, supra; Matter of Jennings v Comm. N.Y.. Dept. of Social Svcs.*, 71 AD3d 98, 108 [2d Dept 2010]). If the determination is rationally based, a reviewing court may not substitute its judgment for that of the agency even if the court might have decided the matter differently (*Matter of Savetsky v Zoning Bd. of Appeals of Southampton*, 5 AD3d 779, 780 [2d Dept 2004]; *Matter of Calvi v Zoning Bd. of Appeals of the City of Yonkers, supra*). It is not for the reviewing court to weigh the evidence or reject the choice made by the agency where the evidence conflicts and room for choice exists (*Matter of Calvi v Zoning Bd. of Appeals of the City of Yonkers, supra*, citing *Toys "R" Us v Silva*, 89 NY2d 411, 424 [1996]; *Akpan v Koch, supra*).

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

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

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

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

Dated: Mineola, New York
January 25, 2017

ENTER:

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EXHIBIT F

Town of Brookhaven Industrial Development Agency Uniform Tax Exemption Policy

TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY
UNIFORM TAX EXEMPTION POLICY

SECTION 1. PURPOSE AND AUTHORITY. Pursuant to Section 874(4)(a) of Title One of Article 18-A of the General Municipal Law (the "Act"), Town of Brookhaven Industrial Development Agency (the "Agency") is required to establish a uniform tax exemption policy applicable to the provision of any financial assistance of more than one hundred thousand dollars to any project. This uniform tax-exemption policy was adopted pursuant to a resolution enacted by the members of the Agency on June 20, 2012.

SECTION 2. DEFINITIONS. All words and terms used herein and defined in the Act shall have the meanings assigned to them in the Act, unless otherwise defined herein or unless the context or use indicates another meaning or intent. The following words and terms used herein shall have the respective meanings set forth below, unless the context or use indicates another meaning or intent:

(A) "Administrative Fee" shall mean a charge imposed by the Agency to an Applicant or project occupant for the administration of a project.

(B) "Affected Tax Jurisdiction" means, with respect to a particular project, Suffolk County, the Town, any Village or applicable School District, Fire Districts or other taxing jurisdictions in which such project is located which will fail to receive real property tax payments or other tax payments which would otherwise be due with respect to such project due to a Tax Exemption obtained by reason of the involvement of the Agency in such project, unless the Affected Tax Jurisdictions shall agree in writing to add or subtract additional governmental entities thereto.

(C) "Agency Fee" shall mean the normal charges imposed by the Agency on an Applicant or a project occupant to compensate the Agency for the Agency's participation in a project. The term "Agency Fee" shall include not only the Agency's normal application fee and the Agency's normal Administrative Fee, but also may include (1) reimbursement of the Agency's expenses, (2) rent imposed by the Agency for use of the property of the Agency and (3) other similar charges imposed by the Agency.

(D) "Applicant" shall mean an applicant for financial assistance.

(E) "Applicant Project" shall mean a project which is undertaken by the Agency for the benefit of an Applicant which either (1) has been or will be financed by the issuance by the Agency of bonds, notes or other evidences of indebtedness with respect thereto or (2) is a straight lease transaction which the Agency has determined to undertake pursuant to the Lease Policy.

(F) "Town" shall mean the Town of Brookhaven.

(G) "Lease Period" shall mean the lease policy approved by resolution of the members of the Agency, pursuant to which the Agency set forth the circumstances under which the Agency will consider undertaking a straight-lease transaction.

(H) "Municipality" shall mean the town and each village located within the Town.

(I) "Non-Applicant Project" means a project which is undertaken by the Agency for the benefit of the Agency and shall not include an Applicant Project.

(J) "PILOT" or "Payment in Lieu of Tax" shall mean any payment made to the Agency or an Affected Tax Jurisdiction equal to all or a portion of the real property taxes or other taxes which would have been levied by or on behalf of an Affected Tax Jurisdiction with respect to a project but for Tax Exemption obtained by reason of the involvement of the Agency in such project, but such term shall not include Agency Fees.

(K) "School District" shall mean each school district located within the Town.

(L) "Tax Exemption" shall mean any financial assistance granted to a project which is based upon all or a portion of the taxes which would otherwise be levied and assessed against a project but for the involvement of the Agency in such project.

(M) "IDA" shall mean the Town of Brookhaven Industrial Development Agency AKA TOBIDA

(N) "Village" means any incorporated Village located within the Town.

SECTION 3. GENERAL PROVISIONS.

(A) General Policy. The general policy of the Agency is to grant Tax Exemptions as hereinafter set forth to (1) any Applicant Project and (2) any Non-Applicant Project.

(B) Exceptions. The Agency reserves the right to deviate from such policy in special circumstances. In determining whether special circumstances exist to justify such a deviation, the Agency may consider the magnitude of the deviation sought and the factors which might make the project unusual, which factors might include but not be limited to the following factors: (1) The magnitude and/or importance of any permanent private sector job creation and/or retention related to the proposed project in question; (2) whether the Affected Tax Jurisdictions will be reimbursed by the project occupant if such project does not fulfill the purposes for which Tax Exemption was granted; (3) the impact of such project on existing and proposed businesses and/or economic development projects; (4) the amount of private sector investment generated or likely to be generated by such project; (5) the estimated value of the Tax Exemptions requested; (6) the extent to which such project will provide needed services and/or revenues to the Affected Tax Jurisdictions; and (7) if the project is designated blighted as per the Blight 2 Light code. In addition, the Agency may consider the other factors outlined in Section 874(4)(a) of the Act.

(C) Application. No request for a Tax Exemption relating to an Applicant Project shall be considered by the Agency unless an application and environmental assessment form are filed with the Agency on the forms prescribed by the Agency pursuant to the rules and

regulations of the Agency. Such application shall contain the information requested by the Agency, including a description of the proposed project, the proposed financial assistance being sought with respect to the project, the estimated date of completion of the project, and whether such financial assistance is consistent with this part.

(D) Notice to Affected Tax Jurisdictions. No request for approval of an Applicant Project by the Agency which involves the issuance of bonds, notes or other evidences of indebtedness with respect thereto or any other application for Tax Exemptions or other financial assistance which may aggregate more than $100,000 or which involves a proposed deviation from the provisions of this Uniform Tax Exemption Policy, shall be given final approval by the Agency unless and until (1) the Agency has sent written notice of said request to each Affected Tax Jurisdiction and (2) has given each Affected Tax Jurisdiction a reasonable opportunity, both in writing and in person, to be heard by the Agency with respect to the proposed request. With respect to Non-Applicant Projects, the Agency shall comply with the provisions of Section 859-a of the Act, to the extent applicable. In addition, the Agency shall comply with all other notice provisions contained in the Act relative thereto.

SECTION 4. SALES AND USE TAX EXEMPTION.

(A) General. State law provides that purchases of tangible personal property by the Agency or by an agent of the Agency, and purchases of tangible personal property by a contractor for incorporation into or improving, maintaining, servicing or repairing real property of the Agency, are exempt from sales and use taxes imposed pursuant to Article 28 of the Tax Law. The Agency has a general policy of abating sales and use taxes applicable (1) only to the initial acquisition, construction and/or equipping of an Applicant Project and (2) to any Non-Applicant Project. The Agency has no requirement for imposing a payment in lieu of tax arising from the exemption of an Applicant Project from sales and/or use taxes applicable to the initial acquisition, construction and/or equipping of such project, except (1) as described in subsection (E) below or (2) in the circumstance where (a) an Applicant Project is offered sales and use tax exemption on the condition that a certain event (such as the issuance of bonds by the Agency with respect to the project) occur by a certain date and (b) such event does not occur, in which case the Agency may require that the Applicant make payments in lieu of sales and use taxes equal to the amount of tax which otherwise may have been due to the New York State Department of Taxation and Finance.

(B) Period of Examination. Except as set forth in subsection (A) above, the period of time for which a sales and use tax exemption shall be effective (the "Tax Exemption Period") shall be determined as follows:

(1) General. Unless otherwise determined by the Agency, the sales and use tax exemption for an Applicant Project shall be for the Tax Exemption Period commencing with the issuance by the Agency of bonds, notes or other evidences of indebtedness with respect to such project, or the execution and delivery by the Agency of a lease agreement relating to such project pursuant to the Lease Policy, and ending on the date of completion of the project or specific date agreed upon by agency and

project. The Tax Exemption Period for a Non-Applicant Project shall extend for such period of time as the Agency shall determine.

(2) Early Commencement. The Tax Exemption Period for an Applicant Project may, at the discretion of the Agency, commence earlier than the date of issuance by the Agency of the Agency's bonds, notes or other evidences of indebtedness relating to the project, provided that (a) the Agency has complied with the requirements of Section 859-a of the Act, (b) the Agency thereafter adopts a resolution determining to commence such period earlier, (c) the Applicant agrees to the conditions of such resolution and supplies to the Agency the materials required to be supplied to the Agency thereunder, and (d) the Chairperson or Executive Director of the Agency acknowledges satisfaction of all conditions to the granting of such Tax Exemption set forth in such resolution.

(3) Normal Termination. The Tax Exemption Period for an Applicant Project will normally end upon the completion of the acquisition and construction of such project or the specific date agreed upon by the agency and the project. On construction projects, the Agency and the Applicant shall agree on the estimated date of completion of the project, and the sales and use tax exemption shall cease on the earlier of (a) the actual date of completion of such project or (b) the date which is six (6) months after the estimated date of completion of such project. On non-construction projects, the Agency and the Applicant shall agree on the estimated date of completion of the project, and the sales and use tax exemption shall cease on the earlier of (a) the actual date of completion of the project or (b) the date which is three (3) months after the estimated date of completion of the project. If the Agency and the Applicant shall fail to agree on a date for completion of the project, the Agency shall on notice to the Applicant make the determination on the basis of available evidence.

(4) Later Termination. The Agency, for good cause shown, may adopt a resolution extending the period of completion of the project and/or extending the Tax Exemption Period.

(C) Items Exempted. The sales and use tax exemption granted by the Agency with respect to an Applicant Project shall normally extend only to the following items acquired during the Tax Exemption Period described in subsection (B) above:

(1) Improvements to and items incorporated into the real property, including all building materials;

(2) Tangible personal property, including furniture, furnishings and equipment used to initially equip the project or otherwise forming part of the project if purchased by the Applicant as agent of the Agency;

(3) The rental of tools, equipment, and other items necessary for the construction and/or equipping of the project if rented by the Applicant as agent of the Agency; and

(4) Office supplies, fuel, electricity, utilities, and similar items consumed in the process of acquiring, constructing and/or equipping the project if purchased by the Applicant as agent of the Agency.

(D) Items Not Exempted. A sales and use tax exemption with respect to an Applicant Project shall not be granted by the Agency for the following:

(1) Purchases occurring beyond the Tax Exemption Period described in subsection (B) above;

(2) Repairs, replacements or renovations of the project, unless such repairs, replacements or renovations constitute major capital-type expenses approved by the Agency as a separate project in the manner contemplated by the Act: or

(3) Operating expenses, unless such operating expenses constitute major capital-type expenses approved by the Agency as a separate project in the manner contemplated by the Act.

(E) Percent of Exemption. Unless otherwise determined by resolution of the Agency, the sales and use tax exemption shall be equal to one hundred percent (100%) of the sales and/or use taxes that would have been levied if the project were not exempt by reason of the Agency's involvement in the project. If an exemption of less than one hundred percent (100%) is determined by the Agency to be applicable to a particular Applicant Project, then the Applicant shall be required to pay a PILOT to the Agency equal to the applicable percentage of sales and/or use tax liability not being abated. The Agency shall remit such PILOT, within thirty (30) days of receipt thereof by the Agency, to the Affected Tax Jurisdictions in accordance with Section 874(3) of the Act.

(F) Confirmation Letter. The final act of granting a sales and/or use tax exemption by the Agency shall be confirmed by the execution by an authorized officer of the Agency of a confirmation letter by the Agency. Such confirmation letter may either be in the form of a letter for the duration of the anticipated construction period relating to the project (where the sales and use tax exemption is permanent, because the Agency is satisfied that any conditions precedent to such sales and use tax exemption, such as the issuance of bonds or the execution of a lease agreement by the Agency, have been satisfied) or a letter having a shorter duration (where such sales and use tax exemption is tentative, because there remain conditions precedent to such sales and use tax exemption which have not been satisfied). Each such confirmation letter shall describe the scope and term of the sales and use tax exemption being granted.

(G) Required Filings. The New York State Department of Taxation and Finance requires that proper forms and supporting materials be filed with a vendor to establish a

purchaser's entitlement to a sales- and use tax-exemption. For example, TSB-M-87(7) outlines the materials that must be filed to establish entitlement to a sales- and use-tax exemption as an "agent" of the Agency including without limitations form ST-60. It is the responsibility of the Applicant and/or project occupant to ensure that the proper documentation is filed with each vendor to obtain any sales and use tax exemptions authorized by the Agency.

(H) Required Reports and Records. Pursuant to Section 874(B) of the Act, the Applicant and/or project occupant is required to annually file with the New York State Department of Taxation and Finance a statement of the value of all sales and use tax exemptions claimed under the Act by the Applicant and/or the project occupant and/or all agents, subcontractors and consultants thereof. The project documents shall require that (1) a copy of such statement will also be filed with the Agency and (2) that the project occupant shall maintain, for a period ending seven (7) years after the last purchase made under the sales and use tax exemption, and make available to the agency at the request of the Agency, detailed records which shall show the method of calculating the sales and use tax exemption benefit granted by the Agency.

SECTION 5. MORTGAGE RECORDING TAX EXEMPTION.

(A) General. State Law provides that mortgages recorded by the Agency are exempt from mortgage recording taxes imposed pursuant to Article 11 of the Tax Law. The Agency has a general policy of abating mortgage recording taxes for the initial financing or any subsequent financing for each project with respect to which the Agency grants a mortgage to secure the indebtedness issues by the Agency. In instances where the initial financing commitment provides for a construction financing of the Agency to be replaced by a permanent financing of the Agency immediately upon or shortly after the completion of the project, the Agency's general policy is to abate the mortgage recording tax on both the construction financing and the permanent financing.

(B) Refinancing. In the event that the Agency retains title to a project, it is the general policy of the Agency to abate mortgage recording taxes on any debt issued by the Agency for the purpose of refinancing prior debt issued by the Agency, and on any modifications, extensions and renewals thereof, so long as the Agency Fees relating to same have been paid.

(C) Non-Agency Projects. In the event that the Agency does not hold title to a project, it is the policy of the Agency not to join in a mortgage relating to that project and not to abate any mortgage recording taxes relating to that project.

(D) Non-Agency Financings. Occasionally, a situation will arise where the Agency holds title to a project, the project occupant needs to borrow money for its own purposes (working capital, for example), and the lender will not make the loan to the project occupant without obtaining a fee mortgage as security. In such instances, the policy of the Agency is to consent to the granting of such mortgage and to join in such mortgage, so long as the following conditions are met:

(1) The documents relating to such proposed mortgage make it clear that the Agency is not liable on the debt, and that any liability of the Agency on the mortgage is limited to the Agency's interest in the project;

(2) the granting of the mortgage is permitted under any existing documents relating to the project, and any necessary consents relating thereto have been obtained by the project occupant; and

(3) the payment of the Agency Fee relating to same.

(E) Exemption Affidavit. The act of granting a mortgage recording tax exemption by the Agency is confirmed by the execution by an authorized officer of the Agency of an exemption affidavit relating thereto.

(F) Mortgage Recording Tax Payments. If the Agency is a party to a mortgage that is not to be granted a mortgage recording tax exemption by the Agency (a "non-exempt mortgage"), then the Applicant and/or project occupant or other person recording same shall pay the same mortgage recording taxes with respect to same as would have been payable had the Agency not been a party to said mortgage (the "normal mortgage tax"). Such mortgage recording taxes are payable to the County Clerk of the County, who shall in turn distribute same in accordance with law. If for any reason a non-exempt mortgage is to be recorded and the Agency is aware that such non-exempt mortgage may for any reason be recorded without the payment of the normal mortgage tax, then the Agency shall prior to executing such non-exempt mortgage collect a payment equal to the normal mortgage tax and remit same within thirty (30) days of receipt by the Agency to the Affected Tax Jurisdictions in accordance with Section 874(3) of the Act.

SECTION 6. REAL ESTATE TRANSFER TAXES.

(A) Real Estate Transfer Tax. Article 31 of the Tax Law provides for the imposition of a tax upon certain real estate transfers. Section 1405(b)(2) of the Tax Law provides that transfers into the Agency are exempt from such tax, and the New York State Department of Taxation and Finance has ruled that transfers of property by the Agency back to the same entity which transferred such property to the Agency are exempt from such tax. The general policy of the Agency is to impose no payment in lieu of tax upon any real estate transfers to or from the Agency.

(B) Real Property Transfer Gains Tax. Article 31-B of the Tax Law provides for the imposition of a tax upon gains derived from the transfer of certain real estate in New York State. Certain transfers are exempt from such tax. It is the policy of the Agency to comply with the law, and to file the appropriate documentation with the New York State Department of Taxation and Finance to obtain preclearance by that department for any documents transferring real property to or from the Agency.

(C) Required Filings. It shall be the responsibility of the Applicant and/or project occupant to ensure that all documentation necessary relative to the real estate transfer tax and the real estate transfer gains tax are timely filed with the appropriate officials.

SECTION 7. REAL ESTATE TAX EXEMPTION.

(A) General. Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, property owned by or under the jurisdiction or supervision or control of the Agency is exempt from general real estate taxes (but not exempt from special assessments and special ad valorem levies). However, it is the general policy of the Agency that, notwithstanding the foregoing, every non-governmental project will be required to enter into a payment in lieu of tax agreement (a "PILOT Agreement"), either separately or as part of the project documents. Such PILOT Agreement shall require payment of PILOT payments in accordance with the provisions set forth below.

(B) PILOT Requirement. Unless the Applicant and/or project occupant and the Agency shall have entered into a PILOT Agreement acceptable to the Agency, the project documents shall provide that the Agency will not file a New York State Department of Taxation and Finance, Division of Equalization and Assessment Form EA-412-a (an "Exemption Form") with respect to the project, and the project documents shall provide that the Applicant and/or the project occupant shall be required to make PILOT payments in such amounts as would result from taxes being levied on the project by the Affected Tax Jurisdictions if the project were not owned by or under the jurisdiction or supervision or control of the Agency. The project documents shall provide that, if the Agency and the Applicant and/or project occupant have entered into a PILOT Agreement, the terms of the PILOT Agreement shall control the amount of PILOT payments until the expiration or sooner termination of such PILOT Agreement. Except as otherwise provided by resolution of the Agency, all real estate PILOT payments are to be paid to the Town of Brookhaven Industrial Development Agency for distribution to the Affected Tax Jurisdictions. Upon expiration of the Initial Period as aforesaid, the assessment of the project shall revert to a normal assessment (i.e., the project will be assessed as if the project were owned by the Applicant and not by the Agency). Also, any addition to the project shall be assessed normally as aforesaid, unless such addition shall be approved by the Agency as a separate project following notice and a public hearing as described in Section 859-a of the Act. Other than fixing the Final Assessment for the Initial Period as aforesaid, the general policy of the Agency is to not provide the Applicant and/or project occupant with any abatement, other than abatements allowed under the Real Property Tax Law.

(C) Required Filings. As indicated in subsection (B) above, pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, no real estate tax exemption with respect to a particular project shall be effective until an Exemption Form is filed with the assessor of each Affected Tax Jurisdiction. Once an Exemption Form with respect to a particular project is filed with a particular Affected Tax Jurisdiction, the real property tax exemption for such project does not take effect until (1) a tax status date for such Affected Tax Jurisdiction occurs subsequent to such filing, (2) an assessment roll for such Taxing Jurisdiction is finalized subsequent to such tax status date, (3) such assessment roll becomes the basis for the preparation

of a tax roll for such Affected Tax Jurisdiction, and (4) the tax year to which such tax roll relates commences.

(D) PILOT Agreement. Unless otherwise determined by resolution of the Agency, all PILOT Agreements shall satisfy the following general conditions:

(1) Determination of Full Assessment: With respect to a project including new construction, the general policy of the Agency is to take title to (or a leasehold interest in) said project, and to file an Exemption Form providing that the appropriate officer or officers of the respective Affected Tax Jurisdictions in which such project is located (each, an "Assessor") will determine the interim assessments of such project as construction progresses thereon (each, an "Interim New Assessment") and a final assessment thereof (the "Final New Assessment") when construction is completed. With respect to a project including existing buildings, the general policy of the Agency is to either avoid taking title to (or a leasehold interest in) such existing buildings, or, if such is not possible, to include the existing assessment on such buildings (the "Existing Assessment", and collectively with the Interim New Assessment, the "Full Assessment", and collectively with the Final New Assessment, the "Final Full Assessment). Once the Final Full Assessment is fixed, the Final Full Assessment shall be frozen and used as the basis of taxation of the project for the initial period (the "Initial Period") applicable to the project pursuant to paragraph (2) below. During the Initial Period, the applicant shall pay real estate PILOT payments determined in each tax year as follows: (i) First, determine the assessment of the new construction portion of the project for such tax year (the "Current New Assessment"), which assessment shall be a percentage of the Final New Assessment determined by subtracting the percentage of abatement applicable to such year (as determined pursuant to paragraph (2) below) from 100%; (ii) next, determine the assessment of the project for such tax year (the "Current PILOT Assessment") by adding the Current New Assessment to the Existing Assessment; and (iii) finally, determine the PILOT payment payable to with respect to the project to each Affected Tax Jurisdiction by multiplying the Current PILOT Assessment by the applicable tax rate of the such Affected Tax Jurisdiction. Once the Initial Period has ended, the Applicant will pay real estate PILOT payments determined in each tax year as follows: Multiply the Final Full Assessment by the applicable tax rate of the such Affected Tax Jurisdiction.

(2) Real Property Tax Abatement TOBIDA provides real property tax abatements in the form of reduction of existing taxes and/or freezing existing taxes and/or abating the increased taxes (value added) as the result of the project. The standard real property tax abatement provided by TOBIDA is based on the total increased assessment for a project over a ten (10) year period, however, the Agency in it's sole discretion may grant

a fifteen (15) year PILOT agreement or grant a five (5) year extension of a ten (10) year PILOT agreement without such fifteen (15) year term being considered a deviation. As a general rule, the real property tax abatement is applied uniformly to all taxing jurisdictions. Each project abatement is based on a cost benefit analysis to determine if it is eligible for the standard exemption. In cases where a project does not meet Agency guidelines for the standard exemption, a reduced abatement in terms of percent and/or duration may be extended to the applicant, the amount of such reduced abatement to be dependent on the facts and circumstances of each particular case. The guidelines to determine eligibility for the standard exemption are as follows:

(a) Industrial, manufacturing, research and development, warehousing, retail, rental residential and corporate office facilities are all eligible for the standard exemption. Speculative office projects are generally not eligible for the standard exemption, unless they provide extraordinary economic benefits in terms of jobs and in stimulating a locally depressed area. Electrical power generating facilities and co-generation facilities are eligible for PILOTs for a term of up to twenty-five (25) years following the completion of the construction, acquisition, and equipping of the project with fixed PILOT payments subject to periodic escalation.

(b) The extent to which the project will directly create or retain permanent private sector jobs as well as "temporary" jobs during the construction period. In addition, the level of secondary "multiplier" jobs that will be created or retained as a result of the project. Current policy is to rely on an in-depth cost benefit analysis of the project.

(c) The level of direct annual payroll that results from the project as well as secondary "multiplier" payroll during the initial construction period. Generally, new jobs created or existing jobs retained by the project should have projected average annual salaries in line with the median per capita income levels in the Town of Brookhaven at the time of application. Further, labor intensive industries with one or more employees per 750 square feet of new building space are viewed favorably.

(d) The likelihood that a desirable project will locate in another municipality/region/state, resulting in subsequent real economic losses for retention projects, and the possible failure to realize future economic benefits for attraction projects.

(e) The extent to which a project will further local planning efforts by upgrading blighted areas, create jobs in areas of high unemployment,

assist institutions of higher education, provide the opportunity for advanced high-tech growth or diversify the Town's economic base.

(f) The impact of the project upon the environment.

(3) Reduction for Failure to Achieve Goals: If the Agency's approval of a particular project is predicated upon achievement by the project of certain minimum goals (such as creating and maintaining certain minimum employment levels), the PILOT Agreement may provide for the benefits provided thereby to the project to be reduced or eliminated if, in the sole judgment of the Agency, the project has failed to fulfill such minimum goals. Except as otherwise provided by resolution of the Agency, all real estate PILOT payments are to be paid to the Town of Brookhaven Industrial Development Agency for distribution to the Affected Tax Jurisdictions. Upon expiration of the Initial Period as aforesaid, the assessment of the project shall revert to a normal assessment (i.e., the project will be assessed as if the project were owned by the Applicant and not by the Agency). Also, any addition to the project shall be assessed normally as aforesaid, unless such addition shall be approved by the Agency as a separate project following notice and a public hearing as described in Section 859-a of the Act. Other than fixing the Final Assessment for the Initial Period as aforesaid, the general policy of the Agency is to not provide the Applicant and/or project occupant with any abatement, other than abatements allowed under the Real Property Tax Law.

(4) Special District Taxes: As indicated above, the Agency is not exempt from special assessments and special ad valorem levies; and accordingly, these amounts are not subject to abatement by reason of ownership of the project by the Agency. The PILOT Agreement shall make this clear and shall require that all such amounts be directly paid by the Applicant and/or project occupant. However, Applicants and project occupants should be aware that the courts have ruled that an Agency-sponsored project is also eligible to apply for an exemption from special district taxes pursuant to Section 485-b of the Real Property Tax Law. If an applicant or project occupant desires to obtain an exemption from special district taxes pursuant to said Section 485-b, it is the responsibility of the Applicant and/or project occupant to apply for same at its sole cost and expense.

(5) Payee: Unless otherwise determined by resolution of the Agency, all PILOT payments payable to an Affected Tax Jurisdiction shall be assessed, billed and collected by the Town of Brookhaven Industrial Development Agency. Pursuant to Section 874(3) of the Act, such PILOT payments shall be remitted to each Affected Tax Jurisdiction within thirty (30) days of receipt.

(6) Enforcement: An Affected Tax Jurisdiction which has not received a PILOT payment due to it under a PILOT Agreement may exercise its remedies under Section 874(6) of the Act. In addition, such Affected Tax Jurisdiction may petition the Agency to exercise whatever remedies that the Agency may have under the project documents to enforce payment; and if such Affected Tax Jurisdiction indemnifies the Agency and agrees to pay the Agency's costs incurred in connection therewith, the Agency may take action to enforce the PILOT Agreement.

(E) Real Property Appraisals. Since the policy of the Agency stated in subsection (C)(1) is to base the value of a project for payment in lieu of tax purposes on a valuation of such project performed by the respective Assessors, normally a separate real property appraisal is not required. However, the Agency may require the submission of a real property appraisal if (1) the Assessor of any particular Affected Tax Jurisdiction requires one or (2) if the valuation of the project for payment in lieu of tax purposes is based on a value determined by the Applicant or by someone acting on behalf of the Applicant, rather than by an Assessor of an Affected Tax Jurisdiction or by the Agency. In lieu of an appraisal, the Agency may require that an Applicant submit to the Agency and each Assessor a certified enumeration of all project costs. If the Agency requires the submission of a real property appraisal, such appraisal shall be prepared by an independent MAI certified appraiser acceptable to the Agency.

SECTION 8. PROCEDURES FOR DEVIATION.

(A) General. In the case where the Agency may determine to deviate from the provisions of this Uniform Tax Exemption Policy pursuant to the provisions of Section 3(B) hereof, the Agency may deviate from the provisions hereof, provided that:

(1) The agency adopts a resolution (a) setting forth, with respect to the proposed deviation, the amount of the proposed Tax Exemption, the amount and nature of the proposed PILOT, the duration of the proposed Tax Exemption and of the proposed PILOT and whether or not a Tax Exemption of any kind shall be granted, (b) indicating the reasons for the proposed deviation, and (c) imposing such terms and conditions thereof as the Agency shall deem just and proper; and

(2) As provided in Section 3(C) hereof, the Agency shall give prior written notice of the proposed deviation from this Uniform Tax Exemption Policy to each Affected Tax Jurisdiction, setting forth therein a general description of the proposed deviation and the reasons therefore. Whenever possible, the Agency shall give such notice to each Affected Tax Jurisdiction at least thirty (30) days prior to the consideration by the Agency of the final resolution determining to proceed with such proposed deviation from this Uniform Tax Exemption Policy.

(B) Agency-Owned Projects. Where a project (1) constitutes a Non-Applicant Project, (2) is otherwise owned and operated by the Agency or (3) has been acquired by the

Agency for its own account after a failure of a project occupant, such project may at the option of the Agency be exempted by the Agency from all taxes, to the extent provided in Section 874(1) and (2) of the Act.

(C) Unusual Projects. Where a project is unusual in nature and requires special considerations related to its successful operations as demonstrated by appropriate evidence presented to the Agency, the Agency may consider the granting of a deviation from the established exemption policy in accordance with the procedures provided in Section 3(B) and Section 8(A) hereof. The Agency may authorize a minimum payment in lieu of tax or such other arrangement as may be appropriate.