



APPROVED MINUTES
SCEDC SPECIAL MEETING
MARCH 15, 2024

PRESENT

Sarah Lansdale, Chair
Kevin Harvey, Vice Chair (via zoom)
Sondra Cochran, Treasurer
Cristofer Damianos, Secretary (via zoom)
Brian Beedenbender, Member
Joshua Slaughter, Member
Gregory Casamento, Member (excused absence)

ALSO PRESENT

Kelly Murphy, Executive Director (EDC)
Lori J. LaPonte, Deputy Executive Director / CFO (EDC)
William Wexler, Agency Counsel
Andrew Komaromi, Esq., Harris Beach PLLC
Jennifer Juengst, Suffolk County, Deputy County Executive

The March 15, 2024, a Special Meeting of the Suffolk County Economic Development Corporation (“SCEDC”) was held in the 3rd Floor Human Services Conference room, located on the 3rd Floor of the H. Lee Dennison Building, 100 Veterans Memorial Highway, Hauppauge, NY, and was called to order by Sarah Lansdale, Chair of the SCEDC, at 9:00 am.

Sarah Lansdale, Chair of the SCEDC, called the meeting to order.

I. PUBLIC COMMENT

Sarah Lansdale, Chair, opened the public comment portion of the Suffolk County Economic Development Corporation Meeting and no comments were received.

II. MINUTES

Chair Lansdale asked for a Motion to accept the Draft Minutes of the January 25, 2024, Annual Meeting.

After further discussion and;

Upon a motion by Sarah Lansdale, and seconded by Josh Slaughter, it was:

RESOLVED, to accept the Minutes of the January 25, 2024, SCEDC Annual Board Meeting.

Unanimously carried 6/0.

III. OTHER BUSINESS

The attached resolution was presented and approved (voting is included).

The Meeting adjourned at 9:15 am.

The next Meeting of the Suffolk County Economic Development Corporation is scheduled for March 28, 2024.

Date: March 15, 2024

At a meeting of the Suffolk County Economic Development, Suffolk County, New York (the "Agency"), was convened in public session held at the 3rd floor Human Services Conference Room of the H. Lee Dennison Building, 100 Veterans Memorial Highway, Hauppauge, New York 11788, the following members of the Corporation were:

Present: Sarah Lansdale, Chair
Sondra Cochran, Treasurer
Josh Slaughter, Member
Brian Beedenbender, Member

Video presence: Kevin Harvey, Vice Chair
X. Cristofer Damianos, Secretary

Excused Absence: Gregory Casamento, Member

Also Present: Kelly Murphy, Executive Director/CEO
Lori LaPonte Deputy Executive Director/CFO
William Wexler, Agency Counsel
Andrew Komaromi, Esq., Harris Beach PLLC
Jennifer Juengst, Suffolk County, Deputy County Executive

After the meeting had been duly called to order, the Chair announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to the authorization of entering into an escrow agreement to fund the creation of and certain costs of a Local Development Corporation to aid a proposed mixed-use, transit-oriented development known as "Midway Crossing Project" and the dedication and contribution of Corporation funds in connection therewith.

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

	Aye	Nay	Absent	Recused
Sarah Lansdale, Chair	[X]	[]	[]	[]
Kevin Harvey, Vice Chair	[]	[]	[]	[]
Sondra Cochran, Treasurer	[X]	[]	[]	[]
X. Cristofer Damianos, Secretary	[]	[]	[]	[]
Gregory T. Casamento, Member	[]	[]	[X]	[]
Josh Slaughter, Member	[X]	[]	[]	[]
Brian Beedenbender, Member	[X]	[]	[]	[]

RESOLUTION OF THE SUFFOLK COUNTY ECONOMIC DEVELOPMENT CORPORATION TAKING OFFICIAL ACTION TOWARD (I) AUTHORIZING THE CORPORATION TO ENTER INTO AN ESCROW AGREEMENT TO FUND THE CREATION OF AND CERTAIN OTHER COSTS OF A LOCAL DEVELOPMENT CORPORATION TO AID A PROPOSED MIXED-USE, TRANSIT-ORIENTED DEVELOPMENT PROJECT KNOWN AS "MIDWAY CROSSING PROJECT" (II) APPROVING THE FORM OF SUCH ESCROW AGREEMENT AND (III) DEDICATING AND CONTRIBUTING CORPORATION FUNDS IN CONNECTION THEREWITH.

WHEREAS, pursuant to the purposes and powers contained within Section 1411 of the Not-for-Profit Corporation Law ("N-PCL") of the State of New York (the "State"), as amended (hereinafter collectively called the "Act"), a resolution adopted by the Suffolk County Legislature (the "**County**") (the "County Resolution"), and pursuant to its duly filed certificate of incorporation (the "Certificate"), the **SUFFOLK COUNTY ECONOMIC DEVELOPMENT CORPORATION** (the "Corporation") was established as a not-for-profit local development corporation of the State with the authority and power to own, lease and sell personal and real property for the purposes of, among other things, acquiring, constructing and equipping certain projects exclusively in furtherance of the charitable or public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, by encouraging the development of, or retention of, an industry in the community or area, and lessening the burdens of government and acting in the public interest;

WHEREAS, since August 2016, and spurred on by the burgeoning Ronkonkoma Hub redevelopment of a multi-block area around the north side of the Ronkonkoma Long Island Rail Road Train Station (the "**Train Station**") and to facilitate redevelopment and advance economic opportunities for the larger Ronkonkoma hub area, the Ronkonkoma Civic Association ("**RCA**") has worked with the Ronkonkoma Visioning Implementation Committee and the Regional Plan Association, to conduct a robust community planning process for the development of the area directly south and adjacent to the Train Station in the County and the Town of Islip (the "**Town**");

WHEREAS, the multi-year community planning process has included community planning meetings, a presentation from national planning experts on transit-oriented development, and multiple mailers sent from the RCA to every home in the community containing updates on the planning process and the community's development concepts;

WHEREAS, in September 2017, the RCA presented the community's ideas and development concepts to the private sector seeking responses that would assist the County and the Town in determining the market feasibility of their ideas and concepts;

WHEREAS, in October 2017, the County issued a Request for Qualifications for a Master Developer (the “**RFQ**”) in furtherance of a project involving the redevelopment of a certain area consisting of approximately 40 acres of County-owned property located immediately south of the Train Station and a 6-acre Town of Islip-owned Parcel to the east of the County parcel;

WHEREAS, as noted in the RFQ, the County’s interest in redeveloping the area south of the Train Station is consistent with the goals and objectives of other ongoing regional initiatives on Long Island;

WHEREAS, the County reviewed the RFQ responses and determined that, Jones Lang Lasalle Americas, Inc., a Maryland corporation having an office at 330 Madison Avenue, 4th floor, New York, NY 10017 (the “**Company**” or “**Master Developer**”), given the experience of the Company had submitted a proposal that addressed the requirements of the RFQ to the County’s satisfaction;

WHEREAS, by Resolution 438-2018, the County Legislature authorized the execution of a Memorandum of Agreement with the Company;

WHEREAS, in April 2020, the Town advertised a Request for Proposals entitled, “Development of Parcels of Land at Long Island MacArthur Airport” (the “**Airport**”) to encourage a project involving the development and lease of certain parcels of property located at the Airport;

WHEREAS, after a comprehensive review of the proposals, the Town determined that the proposal by the Company for a mixed-use, transit-oriented development was in the best interests of the Town;

WHEREAS, on June 15, 2021, the Town Board designated the Company as the preferred responder with respect to the Town’s project, a proposed mixed-use, transit-oriented development known as “Midway Crossing”, subject to the approval of the Islip Town Board of a final development plan together with terms and conditions of an agreement to effectuate such plan;

WHEREAS, insofar as the Town’s project and the County’s project are adjacent to one another and the Company was awarded both projects, the Town and the County entered into an Inter-Municipal Agreement, dated January 1, 2022, wherein both municipal corporations agreed to work in partnership to foster one multi-use, multi-modal redevelopment project (the “**Midway Crossing Project**” or “**Project**”) on certain County-owned and Town-owned real estate parcels (the “**Project Site**”);

WHEREAS, it is anticipated that the Midway Crossing Project will include a life sciences complex, office, commercial and retail development, a convention center, and a hotel;

WHEREAS, the County, the Town, and the Company entered into a non-binding term sheet (the “**Term-Sheet**”) to memorialize the preliminary terms negotiated among the parties

and to inform the public regarding the project concept that will be reviewed during the environmental and land use processes;

WHEREAS, on August 9, 2022, by Resolution No. 16, as modified on January 24, 2023 by Resolution No. 29, the Town Board of the Town (the “**Town Board**”) (i) designated the Company as the Master Developer; and (ii) directed and authorized the Town Attorney, or designated counsel, to negotiate a Master Developer Agreement and Master Lease;

WHEREAS, on August 9, 2022, by Resolution No. 17, the Town Board approved the formation of the Midway Crossing Local Development Corporation (the “**LDC**”) as a local development corporation under Section 1411 of the New York State Not-For-Profit Corporation Law with statutory powers to enable the LDC to work closely with the County and the Town and facilitate the Midway Crossing Project;

WHEREAS, on September 7, 2022, by Resolution No. 647-2022, the County Legislature (i) designated the Company as the Master Developer; and (ii) directed and authorized the County Attorney, or designated counsel, to negotiate a Master Developer Agreement and Master Lease based upon the provisions of the Term-Sheet;

WHEREAS, on September 7, 2022, by Resolution No. 648-2022, the County Legislature approved the formation of the LDC as a local development corporation under Section 1411 of the New York State Not-For-Profit Corporation Law with statutory powers to enable the LDC to work closely with the County and the Town and facilitate the Midway Crossing Project;

WHEREAS, the County, the Town, the Town of Islip Industrial Development Agency (the “**Town IDA**”) and the Company desire to create the LDC and make it operational so it may pursue the variety of preconstruction actions that are necessary to successfully plan, develop, finance, lease, operate and otherwise advance the Midway Crossing Project;

WHEREAS, the County, the Town, the Town IDA, and the Company, desire to enter into a certain Escrow Agreement (the “**Escrow**”) substantially in the form attached hereto as **Exhibit A**, pursuant to which certain Costs (as such term is defined in the Escrow) will be paid, including, without limitation, cost of creating the LDC, and the LDC’s real property appraisal, legal and other professional costs related to the Midway Crossing Project;

WHEREAS, the parties to the Escrow are unwilling to authorize the creation of the LDC until such time as funding is made available to provide for its maintenance and the state and/or federal governments have committed to funding for infrastructure (the “**Government Subsidy**”) needed for the Midway Crossing Project. Said commitment shall be defined as a press release from the office of the Governor or a press conference at which representatives of the State make such public representation or any other representation acceptable to all parties;

WHEREAS, the Corporation determined that the County’s interest in the Midway Crossing Project, as set forth in the 6th “WHEREAS” clause above, are also consistent with the Corporations purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing

or training individuals to improve or develop their capabilities for such jobs, by encouraging the development of, or retention of, an industry in the community or area, and lessening the burdens of government and acting in the public interest;

WHEREAS, the Corporation also determines that entering into the Escrow and the dedication and contribution of the Corporation's funds as set forth herein to aid the Midway Crossing Project and to assist the County's participation therein is consistent with the Corporation's purposes;

WHEREAS, in furtherance of the Corporation's purposes and in the interest of advancing the Midway Crossing Project and assisting the County's participation therein, the Corporation desires to dedicate and contribute Corporation funds for this purpose, funding Fifty Thousand and XX/100 (\$50,000.00) Dollars from the funds of the Corporation, for the funding of the Escrow to cover a portion of the Costs (as such term is defined in the Escrow);

WHEREAS, in furtherance of the Corporation's purposes in the interest of advancing the Midway Crossing Project, the Corporation also wishes to approve the form of the Escrow and authorize the execution and delivery of the Escrow by the Corporation; and

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE SUFFOLK COUNTY ECONOMIC DEVELOPMENT CORPORATION AS FOLLOWS:

Section 1. Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Indenture.

Section 2. The Corporation hereby ratifies, confirms and approves actions heretofore taken by the Executive Director/CEO, Deputy Executive Director/CFO and the staff of the Corporation with respect to the requested consent and other matters contemplated by this Resolution, including, without limitation, those actions required to ensure full compliance with the requirements of the Act, Article 8 of the Environmental Conservation Law (the "SEQR Act") and the regulations adopted pursuant thereto (the "Regulations" and together with the SEQR Act, collectively, "SEQRA"), and all other Applicable Laws that relate thereto.

Section 3. The Corporation determines that the requested action is a Type II Action pursuant to SEQRA involving "continuing agency administration" which does not involve "new programs or major reordering of priorities that may affect the environment" (6 NYCRR §617.5(c)(20)) and therefore no Findings or determination of significance are required under SEQRA.

Section 4. The Corporation hereby determines that the Corporation has fully complied with the requirements of the Act, SEQRA and all other applicable laws that relate to the requested consents.

Section 5. The Corporation is hereby authorized to dedicate and contribute the sum of Fifty Thousand and XX/100 (\$50,000.00) Dollars from the funds of the Corporation, to make

available to be deposited in the Escrow to be used to fund the Costs (as such term is set forth in the Escrow) in the interest of advancing the Midway Crossing Project. The Chair, the Vice Chair or the Executive Director/CEO or the Deputy Executive Director/CFO Director are hereby authorized to deposit such funds in the Escrow, upon the execution and delivery of the Escrow Documents as such term is hereinafter defined. Said authorization to dedicate and contribute such funds is undertaken with the consideration and recognition that such actions will aid the Midway Crossing Project, will assist the County's participation therein consistently with the Corporation's purposes and that the future board composition of the LDC will include *ex officio* the Commissioner of the Suffolk County Department of Economic Development and Planning and the Chair of the Suffolk County Economic Development Corporation ensuring the County's oversight of the LDC's activities and the alignment of the LDC's goals with the Corporation's mission.

Section 6. The Chief Executive Officer of the Corporation is hereby authorized, empowered and directed to do all things and acts, and to execute all documents, as may be necessary or advisable and proper to carry out this resolution, subject to applicable laws, the Corporation's by-laws, the Corporation's policies and procedures in effect from time to time, and the provisions of this resolution heretofore or hereby adopted by the board of directors of the Corporation.

Section 7. The form of the Escrow and execution and delivery of the Escrow and related documents, instruments and agreements required to effectuate this approval (collectively, the "Escrow Documents"), are hereby authorized and approved and ratified with such changes as the Chair, the Vice Chair or the Executive Director/CEO or the Deputy Executive Director/CFO Director may hereafter deem necessary or appropriate.

Section 8. All covenants, stipulations, obligations and agreements of the Corporation contained in this Resolution and the Escrow Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Corporation to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Corporation and its successors from time to time; provided, however, that no covenants, stipulations, obligations or agreements of the Corporation contained in this Resolution, any Escrow Document shall give rise to any pecuniary liability of the Corporation or a charge against its general credit of the Corporation or shall obligate the Corporation in any way except to the extent of its obligations set forth in the Escrow Agreement.

No covenant, stipulation, obligation or agreement herein contained or contained in any Escrow Document shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Corporation in his or her individual capacity and neither the members of the Corporation nor any officer executing any Escrow Document shall be liable personally on the Escrow Documents or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 9. The Chair, the Executive Director/CEO and the Deputy Executive Director/CFO of the Corporation are each hereby authorized to approve modifications to the terms approved herein which are not inconsistent with the intent and substance of this

Resolution, such approval to be evidenced by the execution by any one of such officers of the Escrow Documents containing such modifications.

Section 10. This Resolution shall take effect immediately.

EXHIBIT A

(Form of Escrow Agreement)

MIDWAY CROSSING ESCROW AGREEMENT

This Escrow Agreement (this “Escrow Agreement”), dated as of the ___ day of _____, 2024, by and among the **SUFFOLK COUNTY ECONOMIC DEVELOPMENT CORPORATION**, a not for profit corporation organized and existing under the laws of the State of New York, having its principal office at 100 Veterans Memorial Highway, Hauppauge, New York 11788 (the “**EDC**”), the **TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation created by the State of New York, having its principal office at _____ (the “**IDA**”), and **JONES LANG LASALLE AMERICAS, INC.**, a Maryland corporation having an office at 330 Madison Avenue, 4th floor, New York, NY 10017 (the “**Company**” or “**Master Developer**”). The EDC, IDA and the Company are sometimes hereinafter individually referred to as a “Party” or collectively as the “Parties”.

WHEREAS, since August 2016, and spurred on by the burgeoning Ronkonkoma Hub redevelopment of a multi-block area around the north side of the Ronkonkoma Long Island Rail Road Train Station (the “**Train Station**”) and to facilitate redevelopment and advance economic opportunities for the larger Ronkonkoma hub area, the Ronkonkoma Civic Association (“**RCA**”) has worked with the Ronkonkoma Visioning Implementation Committee and the Regional Plan Association, to conduct a robust community planning process for the development of the area directly south and adjacent to the Train Station in the County and Town;

WHEREAS, the multi-year community planning process has included community planning meetings, a presentation from national planning experts on transit-oriented development, and multiple mailers sent from the RCA to every home in the community containing updates on the planning process and the community’s development concepts;

WHEREAS, in September 2017, the RCA presented the community’s ideas and development concepts to the private sector seeking responses that would assist the County and the Town in determining the market feasibility of their ideas and concepts;

WHEREAS, in October 2017, the County issued a Request for Qualifications for a Master Developer (the “**RFQ**”) in furtherance of a project involving the redevelopment of a certain area consisting of approximately 40 acres of County-owned property located immediately south of the Train Station and a 6-acre Town of Islip-owned Parcel to the east of the County parcel;

WHEREAS, as noted in the RFQ, the County’s interest in redeveloping the area south of the Train Station is consistent with the goals and objectives of other ongoing regional initiatives on Long Island;

WHEREAS, the County reviewed the RFQ responses and determined that, given the experience of the Company, the Company had submitted a proposal that addressed the requirements of the RFQ to the County’s satisfaction;

WHEREAS, by Resolution 438-2018, the Suffolk County Legislature authorized the execution of a Memorandum of Agreement with the Company;

WHEREAS, in April 2020, the Town advertised a Request for Proposals entitled, “Development of Parcels of Land at Long Island MacArthur Airport” (the “**Airport**”) to encourage a project involving the development and lease of certain parcels of property located at the Airport;

WHEREAS, after a comprehensive review of the proposals, the Town determined that the proposal by the Company for a mixed-use, transit-oriented development was in the best interests of the Town;

WHEREAS, on June 15, 2021, the Town Board designated the Company as the preferred responder with respect to the Town’s project, a proposed mixed-use, transit-oriented development known as “Midway Crossing”, subject to the approval of the Islip Town Board of a final development plan together with terms and conditions of an agreement to effectuate such plan;

WHEREAS, insofar as the Town’s project and the County’s project are adjacent to one another and the Company was awarded both projects, the Town of Islip and County of Suffolk entered into an Inter-Municipal Agreement, dated January 1, 2022, wherein both municipal corporations agreed to work in partnership to foster one multi-use, multi-modal redevelopment project (the “**Midway Crossing Project**” or “**Project**”) on certain County-owned and Town-owned real estate parcels (the “**Project Site**”);

WHEREAS, it is anticipated that the Midway Crossing Project will include a life sciences complex, office, commercial and retail development, a convention center, and a hotel;

WHEREAS, the County, the Town, and the Company entered into a non-binding term sheet (the “**Term Sheet**”) to memorialize the preliminary terms negotiated among the parties and to inform the public regarding the project concept that will be reviewed during the environmental and land use processes;

WHEREAS, on August 9, 2022, by Resolution No. 16, as modified on January 24, 2023 by Resolution No. 29, the Town Board of the Town (the “**Town Board**”) (i) designated the Company as the Master Developer; and (ii) directed and authorized the Town Attorney, or designated counsel, to negotiate a Master Developer Agreement and Master Lease based upon the provisions of the Term Sheet;

WHEREAS, on August 9, 2022, by Resolution No. 17, the Town Board approved the formation of the Midway Crossing Local Development Corporation (the “**LDC**”) as a local development corporation under Section 1411 of the New York State Not-For-Profit Corporation Law with statutory powers to enable the LDC to work closely with the County and the Town and facilitate the Midway Crossing Project;

WHEREAS, on September 7, 2022, by Resolution No. 647-2022, the Suffolk County Legislature (i) designated the Company as the Master Developer; and (ii) directed and authorized the County Attorney, or designated counsel, to negotiate a Master Developer Agreement and Master Lease based upon the provisions of the Term Sheet;

WHEREAS, on September 7, 2022, by Resolution No. 648-2022, the Suffolk County Legislature approved the formation of the LDC as a local development corporation under Section

1411 of the New York State Not-For-Profit Corporation Law with statutory powers to enable the LDC to work closely with the County and the Town and facilitate the Midway Crossing Project;

WHEREAS, the Parties desire to create the LDC and make it operational so it may pursue the variety of preconstruction actions that are necessary to successfully plan, develop, finance, lease, operate and otherwise advance the Midway Crossing Project;

WHEREAS, the Parties are unwilling to authorize the creation of the LDC until such time as funding is made available to provide for its maintenance and the state and/or federal governments have committed to funding an amount not less than \$100,000,000.00 for infrastructure (the "**Government Subsidy**") needed for the Midway Crossing Project. Said commitment shall be defined as a press release from the office of the Governor or a press conference at which representatives of the State make such public representation or any other representation acceptable to all parties;

WHEREAS, in the interest of advancing the Midway Crossing Project, the EDC is willing to contribute \$50,000.00 ("**EDC Contribution**"); the IDA is willing to contribute \$50,000.00 (the "**IDA Contribution**"), and the Company is willing to contribute One Hundred Thousand U.S. Dollars (\$100,000.00) (the "**Company Contribution**", which together with the EDC Contribution and the IDA Contribution is the "**Contribution**");

WHEREAS, once the Contribution is made to the Imprest Account (as defined herein) and the Government Subsidy is confirmed, the LDC shall be created by the County and the Town;

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the Parties agree as follows:

1) Scope of Work: The parties agree that the LDC shall take such actions as are necessary to the furtherance of the Midway Crossing Project. Such actions shall be substantially in conformance with the Operating Budget attached hereto as Exhibit A. The Parties further agree that, once created, the LDC may retain consultants and or other third-party contractors ("**Consultants**") to perform services for the LDC related to the Midway Crossing Project; provided, however, any such services performed shall be solely in conformance with the Budget attached as Exhibit A and in conformance with the furtherance of the goals of the Midway Crossing Project and necessary to such furtherance.

2) Obligation to Pay Costs: The Parties or their designated representative hereby agree to pay all Costs, and waive any rights they may otherwise have to challenge the amount of any bill for any Costs once a 30-day period (the "**Review Period**") has passed, commencing on the date that the Parties receive the monthly invoices from the LDC as hereafter provided, to review the Costs to confirm they are reasonable. All monthly invoices will be sent to Jen LaTorre by email to jen.latorre@jll.com, with a paper copy to Jen LaTorre, JLL 330 Madison Avenue, 5th Floor, New York, NY 10017. The LDC will endeavor to require that the Consultants submit their monthly invoices to the LDC by the tenth (10th) of each month, for services rendered during the prior month, and the LDC shall endeavor to submit such invoices to the Parties by the twentieth (20th) of that month. All such invoices shall show a reasonable detail of billings such as actual

time spent, hourly rates and description of work performed. The LDC will provide additional materials related to the work performed as reasonably requested by the Parties, provided that no materials will be provided that compromise confidentiality.

The term “Costs” shall mean:

(a) Actual and reasonable administrative costs and expenses incurred by the LDC, the IDA and EDC in connection with the formation and operation of the LDC;

(b) Any other actual and reasonable costs and expenses of Consultants for services which may be incurred from time to time by the LDC arising, directly or indirectly, from the LDC’s authorization of the Scope of Work or involvement in the Project.

Attached hereto and made a part hereof as Exhibit “A” is a *pro forma* budget setting forth estimated costs. The budget is included for informational purposes, subject to change based on facts and circumstances. Any change must have the prior written approval of the Parties.

3) Imprest Account: Within ten (10) business days of the execution of this Escrow Agreement by all Parties, the EDC and the IDA shall deposit with Marks DiPalermo Wilson PLLC (“**Escrow Agent**”), or any other attorney approved by the Parties, the EDC Contribution and the IDA Contribution (the “**EDC and IDA Contribution Dates**”). The Company shall execute this Escrow Agreement and deposit with the Escrow Agent the Company Contribution no later than the ~~seventh business day~~ from the adoption of the resolution authorizing the EDC Contribution and the IDA Contribution, whichever is later, and, in the event that the Company Contribution is not deposited with the Escrow Agent on or before the seventh business day from the adoption of the resolution authorizing the EDC Contribution or the IDA Contribution, whichever is later, then, in any such event, the EDC and the IDA shall have the right to terminate this Escrow Agreement upon written notice to the other Parties. Marks DiPalermo Wilson PLLC shall deposit and agrees to hold such funds in an imprest account (the “**Imprest Account**”), to be used solely for the payment of Costs in a manner consistent with the terms hereof. The Escrow Agent shall be required to notify the Parties of the name of the financial institution and the account number of the escrow account. Upon the Parties receiving acceptable proof of the Government Subsidy and written confirmation by the Escrow Agent of the funding of the Imprest Account with the Contribution, the LDC shall be incorporated. The Contribution shall be made on a one-time basis, and neither the EDC, the IDA nor the Company shall be obligated to make any further contributions unless the Parties agree to do so as memorialized by a written amendment to this Escrow Agreement.

4) Once created, the LDC shall have the right to draw against the principal and any accrued interest in the Imprest Account, from time to time, as provided for herein, for the payment of any approved or deemed approved Costs. Funds from the Imprest Account shall be released by Escrow Agent solely in accordance with the provisions of this Agreement. Funds shall be released under the following circumstances:

a) To a vendor or consultant, upon the earlier to occur of: (i) **at least two of the three** Parties hereto have consented, in writing, to the release of a portion of the Contribution from the

Imprest Account to pay for any Costs; or (ii) expiration of the Review Period, and no party having objected to the release;

- b) The respective pro-rata portion of the Contribution shall be returned to each Party, without requiring notice or approval from any of the Parties, in the event that: (i) The Government Subsidy is not confirmed on or before September 1, 2024; or (ii) on or before October 1, 2024, the LDC is not formed and established under the laws of the State of New York.
- c) To the Company, in an amount equal to the remaining, undrawn pro rata portion of the Company Contribution, if any, in the event that the LDC and/or Project continues without the Company being , or continuing to be deemed the Master Developer in all documents including, but not limited to; a Master Developer Designation Agreement(s), Pre-Lease Contract(s) and Master Lease(s). In such event, any remaining, undrawn ~~pro-rata portion~~ of the EDC Contribution and/or the IDA Contribution shall be returned to the EDC and IDA, respectively.

5) The Parties hereto agree that the Escrow Agent shall not be responsible for any penalties, loss of principal or interest, or the consequences of any delay in the withdrawal of the Contribution and interest accrued thereon, if any, which may be imposed as a result of the making or the redeeming of the above Contribution, as the case may be, pursuant to this Agreement. The Parties also agree that Escrow Agent shall not be liable for any loss or impairment of the Contribution while it is in the course of collection or if such loss or impairment results from the failure, insolvency or suspension of the financial institution in which the Contribution is deposited.

6) In the event of any dispute between the Parties hereto as to the release of the Contribution from the Imprest Account, Escrow Agent, in its sole and absolute discretion may choose to either:

- a) Continue to hold the Contribution and Imprest Account until the Escrow Agent receives a written agreement executed **by at least two of the three Parties**, directing the disbursement of the Contribution, in which event the Escrow Agent shall disburse the Contribution in accordance with such agreement; or
- b) Take any and all actions as the Escrow Agent deems necessary or desirable, in its sole and absolute discretion, to discharge and terminate its duties under this Agreement, including, without limitation, depositing the Contribution into any court of competent jurisdiction and bringing any action of interpleader or any other proceeding.
- c) Notwithstanding the foregoing, in the event of any litigation between the Parties, the Escrow Agent may deposit the Contribution with the clerk of the court in which such litigation is pending. Upon making such deposit, the Escrow Agent shall be relieved of its duties hereunder and shall have no liability thereafter to any Party whatsoever and the Parties shall indemnify, defend and hold harmless the Escrow Agent from any claims and liability by any third party not a signatory to this Agreement.

7) If Escrow Agent is uncertain, in its sole discretion and for any reason whatsoever,

as to its duties or rights hereunder (and whether or not Escrow Agent has received a written demand), and notwithstanding anything to the contrary herein, Escrow Agent may hold and apply the Contribution pursuant to Section 4 above, or may deposit the Contribution into any court of competent jurisdiction. In the event the Escrow is deposited in a court by the Escrow Agent pursuant to this Section, the Escrow Agent shall be entitled to rely upon the decision of such court and shall be relieved of any fiduciary responsibility for such reliance. In the event of any litigation whatsoever among the Parties with respect to disposition of the Contribution, the Parties shall pay the attorneys' fees and disbursements incurred by the Escrow Agent (which said Parties shall share equally, but for which said Parties shall be jointly and severally liable) for any litigation in which the Escrow Agent is named as, or later becomes, a party.

- a) The Escrow Agent shall have no duties or responsibilities except those set forth herein, which the Parties hereto agree are ministerial in nature. The Parties acknowledge that the Escrow Agent is serving solely as an accommodation to the Parties hereto, and except for the gross negligence or willful misconduct of the Escrow Agent, the Escrow Agent shall have no liability of any kind whatsoever arising out of or in connection with its activity as the Escrow Agent. The Parties jointly and severally agree to and do hereby indemnify, defend and hold harmless the Escrow Agent from all suits, actions, loss, costs, claims, damages, liabilities, and expenses (including, without limitation, attorneys' fees, costs and disbursements) (the "Liabilities") which may be incurred by reason of its acting as Escrow Agent. In no event shall the Escrow Agent be liable for any lost profits or for any incidental, special, consequential or punitive damages incurred by any of the Parties or any third party whether or not the Escrow Agent knew of the possibility or likelihood of such damages. The Escrow Agent's substantial compliance with its standard procedures for provision of the services required pursuant to this Agreement shall be deemed to constitute the exercise of ordinary and due care. The Parties hereby agree to jointly and severally indemnify, defend and hold harmless the Escrow Agent, and its successors and assigns, from and against any and all Liabilities asserted against them in connection with this Agreement, other than those Liabilities caused by the gross negligence or willful misconduct of the Escrow Agent. The Escrow Agent may charge against the Deposit any amounts owed to it under the foregoing indemnity or any other section of this Agreement.

8) No Obligation: Notwithstanding this Escrow Agreement, the Parties hereto recognize and agree that LDC shall have no obligation to commence, continue or conclude the Scope of Work, except as approved by it in accordance with applicable procedures and law. Subject to the foregoing, the Parties hereto will work in good faith to pursue the Scope of Work so as to attain the economic development goals of the LDC and the Midway Crossing Project. Notwithstanding any provision to the contrary, in the event that: (a) on or before September 1, 2024, the: (i) Contribution is not fully received by Escrow Agent; and, (ii) Government Subsidy is not confirmed as provided in the recitals of this Escrow Agreement; or (b) on or before October 1, 2024, the LDC shall not be incorporated, then, in either such event, this Escrow Agreement shall terminate automatically without any notice from or further action by the Parties to this Escrow Agreement, and any EDC Contribution, IDA Contribution and/or Company Contribution received by the Escrow Agent shall be returned to the respective Party who made such contribution.

- 9) Waivers: The Parties hereby agree and acknowledge that the IDA and EDC and

the LDC:

a) shall not incur any liability to the Company as a result of: (i) this Escrow Agreement; (ii) the authorization and oversight of the Scope of Work; and (iii) any discussions had with the Company in connection with the Scope of Work; and the Company agrees that it waives all claims it may otherwise have against the LDC with respect thereto, except to the extent arising from the gross negligence or willful misconduct of the LDC;

b) shall not be deemed to have approved any Company proposal concerning the Project until, and only if, such approval is set forth in writing by the LDC and approved by the Town Supervisor and the County Executive; and

c) have not made any representations whatsoever to the Company concerning the: (i) outcome of the Scope of Work; or (ii) any governmental approvals necessary for the Project.

10) Third Party Beneficiaries: The LDC (once created) is an express third-party beneficiary to this Escrow Agreement and, upon its creation, the LDC shall be deemed a party to this Escrow Agreement, as memorialized by its execution of this Escrow Agreement on the signature page hereof and it shall be bound by the terms and conditions contained herein including the indemnifications granted to the Escrow Agent.

11) Miscellaneous: All prior or contemporaneous written or oral agreements or understandings had among the Parties with respect to the LDC's authorization and oversight of the Scope of Work are hereby merged in this Escrow Agreement. This Escrow Agreement may not be amended orally, but only by a written agreement signed by the Parties hereto. This Escrow Agreement shall be governed and construed in accordance with the laws of the State of New York. The undersigned hereby (i) irrevocably submits to the personal jurisdiction of the courts of the State of New York in Suffolk County, New York, and any federal court in the State of New York, Eastern District of New York ("EDNY"), and any appellate courts to which appeals may be taken therefrom, in or for the purposes of any claim, action or proceeding to be brought by or against the undersigned under, or in connection with, this Escrow Agreement, and (ii) waives any and all rights under the laws of the State of New York, and any other jurisdiction, to object to the jurisdiction of, or the commencement of any such claim, action or proceeding in, the courts of the State of New York, Suffolk County or EDNY.

12) Notices: All notices, demands, offers, elections or other communications required or permitted by this Escrow Agreement shall be in writing and shall be personally delivered, either by hand delivery or overnight courier and addressed to the Parties at the address set forth above, and if to the Escrow Agent, to Marks DiPalermo Wilson PLLC, Attn: Christian DiPalermo, Esq., 485 Madison Avenue, 16th Floor, New York, New York 10022.

Notice shall be deemed to have been given or delivered if personally delivered, upon delivery; or, if sent by overnight courier, on the first day after being sent. Notwithstanding the preceding sentence to the contrary, and solely with respect to the Escrow Agent, notice shall be deemed to

have been given or delivered to the Escrow Agent on the date of the Escrow Agent's actual receipt or refusal of such notice.

In its capacity as Escrow Agent, the Escrow Agent shall not be responsible for the genuineness or validity of any notice, instrument, document or item deposited with it, and shall have no responsibility other than to faithfully follow the instructions contained herein. The Parties hereto agree that the Escrow Agent is fully protected and indemnified in acting in accordance with any written instrument given to it hereunder by any of the Parties hereto believed by the Escrow Agent to have been signed by the proper person or entity. Escrow Agent may assume that any person or entity purporting to give any notice hereunder has been duly authorized to do so. The Escrow Agent shall have no obligation to review or confirm that actions taken pursuant to such notice in accordance with this Agreement comply with any other agreement or document.

[Balance of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the Parties have caused this Escrow Agreement to be duly executed on or as of the date first above written.

TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY

By: _____
Name:
Title:

SUFFOLK COUNTY ECONOMIC DEVELOPMENT CORPORATION

By: _____
Name:
Title:

JONES LANG LASALLE AMERICAS INC.

By: _____
Name:
Title:

MARKS DiPALERMO WILSON PLLC as Escrow Agent

By: _____
Name: **Christian DiPalermo**
Title: **Partner**

Midway Crossing Local Development Corporation joins in the execution of this Escrow Agreement to memorialize its addition as a Party in accordance with the provisions of Section 6 of this Escrow Agreement.

MIDWAY CROSSING LOCAL DEVELOPMENT CORPORATION

By: _____
Name:
Title:
Date:

EXHIBIT "A"

BUDGET

Administrative Support	\$15,000
Bookkeeping	\$10,000
IT	\$10,000
D/O insurance	\$10,000
Liability insurance	\$10,000
General Counsel	\$75,000
Year End Audit	\$10,000
PARIS reporting	\$10,000
Environmental review	\$50,000
Supplies	\$10,000
Total	\$200,000