

**Avalon Glen Cove South
Consent Resolution**

A regular meeting of the Glen Cove Industrial Development Agency (the "Agency") was convened in public session on June 24, 2021, at 6:30 p.m., local time, and held remotely in compliance with Executive Order 202.1 issued by the Governor of the State of New York on March 12, 2020, as amended and supplemented.

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

PRESENT:

Timothy J. Tenke	Chair
Vincent C. Hartley	Vice Chair/Treasurer
Joseph Gioino	Member
James J. Cappiello	Member
John Tetta	Member
Ion Puspurica	Member

NOT PRESENT:

David Jimenez	Member
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THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Ann S. Fangmann	Executive Director
Margo Zoldessy	Chief Financial Officer
Camille Byrne	Secretary
Milan K. Tyler, Esq.	Transaction Counsel

The attached resolution no. 7(A) was offered by Chairperson Tenke, seconded by Vice Chair Hartley:

ENTERED
FDA

6-24-21

Resolution No. 7A

RESOLUTION OF THE GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING CERTAIN MATTERS IN CONNECTION WITH ITS STRAIGHT-LEASE TRANSACTION WITH GLEN COVE DEVELOPMENT LLC (D/B/A AVALON GLEN COVE SOUTH)

WHEREAS, the Glen Cove Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act"), and Chapter 374 of the 1974 Laws of New York, as amended, constituting Section 919 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, industrial and commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more "projects" (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, on or about November 29, 2001, GLEN COVE DEVELOPMENT LLC (D/B/A AVALON GLEN COVE SOUTH), a limited liability company organized and existing under the laws of the State of Delaware and duly authorized to do business in the State of New York as a foreign limited liability company (the "Assignor"), entered into a "straight lease" transaction with the Agency under the Act, pursuant to which the Agency undertook a project (the "Project") consisting of the following: (A)(1) the acquisition of an interest in an approximately 3.5 acre parcel of land located on Pratt Boulevard in the City of Glen Cove, Nassau County, New York, and known as Tax Section 21, Block B, Lot 647 and a portion of the bed of South Street (the "Land"), (2) the construction of an approximately 315,000 square foot building together with an approximately 165,000 square foot enclosed parking facility thereon (the "Facility"), and (3) the acquisition and installation of certain machinery and equipment therein and thereon (the "Equipment"), all of the foregoing to constitute a market rate, luxury rental housing facility (the Land, the Facility and the Equipment being collectively referred to as the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real estate transfer taxes and real property taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) of the Project Facility to the Assignor or such other person designated by the Assignor and approved by the Agency; and

WHEREAS, the Agency appointed the Assignor as agent of the Agency to undertake the acquisition, construction, installation and equipping of the Project and the Agency leased the Project Facility to the Assignor, all pursuant to the terms and conditions set forth in that certain Lease Agreement dated as of November 1, 2001 between the Assignor and the Agency (as amended, the "Lease Agreement"), and the other documents, instruments and agreements executed by the Assignor and/or the Agency in connection with the Project (collectively, the "Transaction Documents"); and

WHEREAS, pursuant to a notification and consent request letter dated May 12, 2021 (the "Consent Request Letter"), Fairfield Glen Cove South Owner LLC, a limited liability company organized and existing under the laws of the State of Delaware and duly authorized to do business in the State of New York as a foreign limited liability company (the "Assignee"), requested that the Agency consent to the transfer by the Assignor to the Assignee, of all of the Assignor's right, title and interest in and to the Lease Agreement and the related Transaction Documents (collectively, the "Proposed Transaction"); and

WHEREAS, the Agency is willing to consent to the Proposed Transaction, subject to the terms of this Resolution;

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

1. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Lease Agreement.
2. The Agency determines that the Assignee's request with respect to a previously approved and unchanged Project 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 Article 8 of the New York Environmental Conservation Law.
3. No additional "financial assistance" is being requested by the Assignor or the Assignee with respect to the transactions contemplated by this Resolution and therefore no public hearing of the Agency is required pursuant to Section 859-a of the Act.
4. The Agency hereby ratifies, confirms and approves all actions heretofore taken by the Executive Director and the staff of the Agency with respect to the matters contemplated by this Resolution, including, without limitation, those actions required to ensure full compliance with the requirements of the Act and all other Applicable Laws that relate thereto.
5. The Agency hereby consents to the Proposed Transaction as outlined in the Consent Request Letter, subject, however, to the delivery of evidence satisfactory to the Agency that the Assignor is in full compliance with all of its obligations under the Lease

Agreement and the other Transaction Documents. The execution and delivery of assignment and assumption agreements and other amendment documents and agreements required to effectuate the Proposed Transaction (collectively, the "Amendment Documents"), being substantially in the forms utilized by the Agency for prior transactions, are hereby authorized and approved. The Chairman, Vice Chairman, Executive Director and Chief Financial Officer of the Agency are each hereby authorized, acting individually or jointly, to execute, acknowledge and deliver the Amendment Documents. The execution and delivery of the Amendment Documents by any one of said officers shall be conclusive evidence of due authorization and approval.

6. The Chairman, Vice Chairman, Executive Director and Chief Financial Officer of the Agency are each hereby designated an authorized representative of the Agency and each of them is hereby authorized and directed, acting individually or jointly, to execute and deliver any and all consents, agreements, papers, instruments, opinions, certificates, affidavits and other documents required in connection with the Amendment Documents (collectively, the "Consent Documents"), and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, including, without limitation, taking any necessary action to obtain consent of any other person or party necessary with respect to execution, delivery and approval of the Consent Documents.

7. The authorizations set forth in this Resolution are subject to the condition that the Company shall reimburse the Agency for all costs and expenses incurred by the Agency in connection with the transactions contemplated herein, including, without limitation, the Agency's consent and amendment fee in the amount of \$2,500 and all reasonable attorneys' fees and disbursements incurred by the Agency, including without limitation, the fees and expenses of Special Counsel, Phillips Lytle LLP.

8. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution, the Amendment Documents and the Consent Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Agency and its successors from time to time; provided, however, that no covenants, stipulations, obligations or agreements of the Agency contained in this Resolution, any Amendment Document or any Consent Document shall give rise to any pecuniary liability of the Agency or a charge against its general credit or shall obligate the Agency in any way except to the extent that the same can be paid or recovered from the Project Facility or the sale or liquidation of the Project Facility or revenues therefrom.

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

9. The Chairman, Vice Chairman, Executive Director and Chief Financial Officer of the Agency 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 Amendment Documents and/or the Consent Documents containing such modifications.

10. This Resolution shall take effect immediately.

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

	<u>VOTING</u>
Timothy J. Tenke	AYE
Vincent C. Hartley	AYE
Joseph Gioino	AYE
John Tetta	AYE
James J. Cappiello	AYE
Ion Puspurica	AYE
<i>David Jimenez</i>	<i>Absent</i>

The foregoing Resolution was thereupon declared duly adopted.

