

**Arcadia**  
**Approving Resolution 7a**

A special meeting of the Glen Cove Industrial Development Agency (the “Agency”) was convened in public session on April 14, 2020, at 7:00 p.m., local time, and held remotely by conference call in compliance with Executive Order 220.1 issued by the Governor of the State of New York on March 12, 2020.

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

**PRESENT:**

Timothy J. Tenke	Chairman
Vincent C. Hartley	Vice Chairman/Treasurer
James J. Cappiello	Member

**NOT PRESENT:**

Joseph Gioino	Member
John Tetta	Member

**THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:**

Ann Fangmann	Executive Director
Camille Byrne	Secretary
Margo Zoldessy	Finance Manager
Milan K. Tyler, Esq.	Transaction Counsel

The attached resolution no. 04-14-20-7a was offered by Chairman Tenke, seconded by Vincent Hartley:

RESOLUTION TAKING OFFICIAL ACTION TOWARD AND APPROVING THE  
STRAIGHT LEASE DOCUMENTS FOR A CERTAIN PROJECT FOR  
ARCADIA LANDING LLC AND/OR ITS AFFILIATES

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, Arcadia Landing LLC, a limited liability company duly organized and existing under the laws of the State of New York (the “Applicant”), presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the construction of an approximately 102,800 square foot building (collectively, the “Building”) located on a parcel of land located at 100 Breton Way, City of Glen Cove, County of Nassau, New York (the “Land”), and (2) the acquisition of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Building, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as a multi-family residential facility consisting of approximately 72 age-restricted residential units; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, any approval of the Project is contingent upon, inter alia, a determination by the members of the Agency to proceed with the Project following a determination by the Agency that (A) the applicable procedural requirements contained in the Act relating to the Project have been satisfied; and (B) the undertaking of the Project by the Agency and the granting of the Financial Assistance are and will be in compliance with all other applicable requirements of the Act, SEQRA (as hereinafter defined), and all other statutes, codes, laws, rules and regulations of

any governmental authority having jurisdiction over the Project and/or the Project Facility (collectively, the “Applicable Laws”); and

WHEREAS, the Executive Director of the Agency (A) caused notice of a public hearing of the Agency pursuant to Section 859-a of the Act (the “Public Hearing”) to hear all persons interested in the Project and the Financial Assistance contemplated by the Agency with respect to the Project, to be mailed on April 2, 2020 to the chief executive officer of the City of Glen Cove, New York (the “City”) and of each other affected tax jurisdiction within which the Project Facility is or is to be located, and posted a copy of the Application on the Agency’s website; (B) caused notice of the Public Hearing to be published on April 3, 2020 in the *Newsday*, a newspaper of general circulation available to residents of the City; (C) caused the Public Hearing to be conducted on April 14, 2020, at 3:30 p.m., local time, via conference call rather than a public hearing open for the public to attend in person because of the restrictions on meetings and gatherings in effect pursuant to Executive Orders issued by the Governor of the State of New York; (D) caused the Public Hearing to be streamed on the Agency’s website in real-time and a recording of the Public Hearing to be posted on the Agency’s website, all in accordance with Section 857 of the Act, as amended; and (E) caused a written report of the Public Hearing to be prepared which fairly summarizes the views presented at the Public Hearing and collected written correspondence from the public (collectively, the “Report”) and distributed the Report to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the New York Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (“NYSDEC”), being 6 NYCRR Part 617, et. seq., as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination whether to undertake the Project; and

WHEREAS, the Planning Board of the City of Glen Cove (“Planning Board”), pursuant to SEQRA, previously classified the Project as a Type I action and performed a coordinated review of the Project pursuant to 6 NYCRR 617.6(b)(3); and

WHEREAS, the Agency was inadvertently missed as an involved agency during the Planning Board’s coordinated review of the Project; and

WHEREAS, on May 5, 2009, Planning Board, as Lead Agency, issued a determination of significance, a negative declaration, finding that the Project would not have any significant adverse environmental impacts; and

WHEREAS, on December 7, 2011, the Applicant’s predecessor in interest applied for Final Subdivision Approval of the Project, including, among other things, changes to the facades of the proposed building, alterations of the driveway entrance and modifications to the landscape plan; and

WHEREAS, on July 17, 2012, Planning Board, as Lead Agency, issued an updated determination of significance, an amended negative declaration, finding that the Project, as amended, would not have any significant adverse environmental impacts; and

WHEREAS, the Applicant's predecessor in interest was unable to continue with the development of the Project due to financial reasons which necessitated a change in Project design as well as Project ownership; and

WHEREAS, on June 13, 2019, the Applicant submitted to the Planning Board an application for amended Site Plan Approval for the project, including, among other things, changes to the location of buildings 1-4 and the addition of a new clubhouse; and

WHEREAS, for purposes of SEQRA, the action under consideration by the Agency is limited to the granting of an exemption from sales and use taxes for buildings 1 - 4 and the new clubhouse; and

WHEREAS, nonetheless, the Agency is reviewing the potential environmental impacts for the Project as a whole to avoid any improper segmentation;

WHEREAS, on September 17, 2019, Planning Board, as Lead Agency, issued an updated determination of significance, an amended negative declaration, finding that the Project, as amended, would not have any significant adverse environmental impacts; and

WHEREAS, pursuant to SEQRA, to aid the Agency in determining whether the Project may have a significant adverse impact upon the environment, the Agency has reviewed documentation provided to the Planning Board as a part of its SEQRA coordinated review including (1) Part 1 of a Full Environmental Assessment Form, dated August 2, 2019 ("EAF"); (2) an Indenture between Landing Cove, LLC and Arcadia Landing, LLC dated June 7, 2019; (3) a Topographic Survey prepared by John Schnurr LLS, dated April 15, 2019; (4) a letter from Timothy H. Sullivan, Director of Arcadia Landing, LCC, dated June 11, 2019; and (5) Detailed Site Plans prepared by H2M Architects and Engineers entitled "Breton Hills Residential Development", dated September 2019 (collectively, 1-5 shall be referred to as the "Planning Board SEQRA Record"); and

WHEREAS, pursuant to SEQRA, to aid the Agency in determining whether the Project may have a significant adverse impact upon the environment, the Agency has also completed, received and/or reviewed the Application (collectively, the Planning Board SEQRA Record and the Application shall be referred to as the "Environmental Information"); and

WHEREAS, prior to making a recommendation about the potential environmental significance of the Project, the Agency has reviewed the Environmental Information, consulted various information sources, and considered the list of activities which are Type I Actions outlined in Section 617.4 of the Regulations, the list of activities that are Type II Actions outlined in Section 617.5 of the Regulations and the criteria for determining significance outlined in Section 617.7 of the Regulations; and

WHEREAS, the Agency concurs with the negative declaration issued by Planning Board and desires to adopt the Planning Board's amended negative declaration as its own negative declaration under SEQR; and

WHEREAS, the Agency now desires to make its determination to proceed with the Project and to grant the Financial Assistance, subject to the terms hereof; and

WHEREAS, the Applicant and/or one (1) or more of its affiliates will (A) execute and deliver a certain Uniform Project Agreement (the "Project Agreement"), pursuant to which the Applicant and/or such affiliates will undertake the Project and the Agency will grant to the

Applicant and/or such affiliate(s) the Financial Assistance; (B) execute and deliver a certain Bill of Sale (the “Bill of Sale”), pursuant to which the Applicant and/or such affiliates will convey title to the Equipment to the Agency; and (C) execute and deliver certain other certificates, documents, instruments and agreements related to the Project (together with the Project Agreement and the Bill of Sale, collectively, the “Transaction Documents”);

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

Section 1. The Project was properly classified as a Type I action by the Planning Board pursuant to the City of Glen Cove Code Sections 134-2 and 134-3, and the Agency hereby classifies the Project as a Type I action pursuant to 6 NYCRR 617.4(b)(11).

Section 2. After careful review of the Environmental Information, the Agency agrees with the determination of Planning Board relative to SEQRA - specifically, that the Project, as amended, will not have any significant adverse environmental impacts and that a negative declaration is appropriate.

Section 3. The Agency adopts as its own, the findings contained in the September 17, 2019 amended negative declaration issued by the Planning Board and attached hereto as Exhibit A.

Section 4. In accordance with Section 859-a of the Act, the Agency has prepared a written cost-benefit analysis with respect to the Project and the granting of the Financial Assistance (the “Analysis”). The Agency has reviewed the Application, the Report and the Analysis, and, based upon the representations made by the Applicant to the Agency and information obtained by the Agency, the Agency has reviewed and assessed all material information necessary to afford a reasonable basis for the Agency to make a determination to approve the Financial Assistance. In addition, the Agency hereby makes the following findings and determinations with respect to the Project:

(a) based on the proposed use of the Project Facility as set forth in the Application, the economic effects of the Project on the area in which it is situated, and the employment reasonably expected to be created and/or maintained by the Project, and an analysis of how the Project contributes to the realization of the public purposes of promoting employment opportunities in the City and the prevention of economic deterioration in the City, the Project will constitute a commercial facility with a significant impact on the area in which it is situated, and will advance the Agency’s purposes by promoting employment opportunities and preventing economic deterioration in the City. Therefore, the Project constitutes a “project” within the meaning of the Act;

(b) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Applicant to undertake the Project in the City;

(c) there is a likelihood that the Project would not be undertaken but for the granting of the Financial Assistance by the Agency to the Applicant;

(d) the completion of the Project Facility and the operation thereof by the Applicant will not result in the removal of a facility or plant of the Applicant or any other occupant or user of the Project Facility from one area of the State of New York (the “State”) to another area of the State or in the abandonment of one or more plants or facilities of the Applicant or any other occupant or user located within the State (but outside of the City). Therefore, the provisions of subdivision (1) of Section 862 of the Act are not and will not be violated as a result of the granting of the Financial Assistance by the Agency to the Applicant;

(e) the Project will serve the public purposes of the Act by preserving permanent, private sector jobs, and increasing the overall number of permanent, private sector jobs in the State;

(f) no funds of the Agency shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant, nor shall any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State, nor shall any funds of the Agency be used for advertising or promotional materials which depict elected or appointed government officials in either print or electronic media;

(g) the Project Facility does not and will not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project. For purposes of this finding, retail sales shall mean: (i) sales by a registered vendor under Article 28 of the New York Tax Law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section 1101 of the New York Tax Law; or (ii) sales of a service to such customers; and

(h) the granting of the Financial Assistance by the Agency with respect to the Project will encourage and assist the Applicant in undertaking the Project in the City, will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of the City and the State and improve their standard of living, and thereby serve the public purposes of the Act; and

(i) The Project will not result in the removal or abandonment of a plant or facility of the Applicant or any other occupant or user of the Project Facility, currently located within the City.

Section 5. The Agency hereby ratifies, confirms and approves all actions heretofore taken by the Executive Director, Chief Financial Officer and staff of the Agency with respect to the Application and the Public Hearing, including, without limitation, (a) those actions required to ensure full compliance with the requirements of the Act, SEQRA and all other Applicable

Laws that relate to the Project, and (b) the appointment of the law firm of Phillips Lytle LLP as Counsel to the Agency with respect to all matters in connection with the Project.

Section 6. The Agency hereby determines that the Agency has fully complied with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the Project.

Section 7. Having considered fully all comments received at or in connection with the Public Hearing, including correspondence received subsequent to the Public Hearing, the Agency hereby further determines to proceed with the Project and the granting of the Financial Assistance, subject to the terms hereof. The Agency hereby approves the granting of an exemption from sales and use taxes in an amount not to exceed \$447,477.00.

Section 8. The Agency recognizes that due to the complexities of the proposed transaction it may become necessary that certain of the terms approved hereby may require modifications from time to time which will not affect the intent and substance of the authorizations and approvals by the Agency herein. The Agency hereby authorizes the Chairman, Vice Chairman, Executive Director and Chief Financial Officer of the Agency, acting individually or jointly, to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution, but may include adjustments to the Financial Assistance granted hereunder. The approval of such modifications shall be evidenced by the certificate of determination of an Agency officer or the execution and delivery by some or all such Agency officers of relevant documents containing such modified terms.

Section 9. The Agency is hereby authorized to (a) acquire an interest in the Equipment pursuant to the Bill of Sale and the other Transaction Documents, (b) grant the Financial Assistance pursuant to the Project Agreement and the other Transaction Documents, and (c) do all things necessary, convenient or appropriate for the accomplishment thereof. All acts heretofore taken by the Agency with respect to the foregoing are hereby approved, ratified and confirmed.

Section 10. The form and substance of the Transaction Documents, in the forms presented to the members of the Agency, together with such changes as the Chairman, Vice Chairman, Executive Director or Chief Financial Officer may hereafter deem necessary or appropriate, are hereby approved. The Chairman, Vice Chairman, Executive Director and Chief Financial Officer are hereby authorized, on behalf of the Agency, acting together or individually, to execute and deliver the Transaction Documents to which the Agency is a party and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same. The execution and delivery of each such document, instrument and agreement by such person(s) shall be conclusive evidence of such approval.

Section 11. The Chairman, Vice Chairman, Executive Director and Chief Financial Officer of the Agency are hereby further authorized, on behalf of the Agency, acting together or individually, to designate any additional Authorized Representatives (as defined in the Agency Lease) of the Agency.

Section 12. The officers, employees and agents of the Agency are hereby authorized and directed, acting individually or jointly, 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 Transaction Documents, to execute and deliver all such additional certificates, instruments, agreements and documents, to 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, convenient or appropriate to effect the purposes of this Resolution and to cause compliance with all of the terms, covenants and provisions of the Transaction Documents to which the Agency is a party or which are binding on the Agency.

Section 13. The members of the Agency acknowledge the terms and conditions of Section 875(3) of the Act and the duties and obligations of the Agency thereunder with respect to granting of State Sales and Use Taxes (as such term is defined in Section 875 of the Act) with respect to the Project. The members hereby direct the officers of the Agency to comply with such terms and conditions with respect to the Project and hereby direct Counsel to the Agency to include such terms and conditions in all relevant Transaction Documents.

Section 14. The Chairman, Vice Chairman, Executive Director and Chief Financial Officer of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 15. 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
James J. Cappiello	AYE
Joseph Gioino	Absent
John Tetta	Absent

The foregoing Resolution was thereupon declared duly adopted.





EXHIBIT A

CITY PLANNING BOARD SEQRA  
DETERMINATION

See Attached