

RXR North Hills Amended Approving Resolution

An annual meeting of the Nassau County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency at 1550 Franklin Avenue, Mineola, Nassau County, New York, on April 7, 2015 at 5:00 p.m. local time.

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

PRESENT:

Timothy Williams	Chairman
Christopher Fusco	Asst. Secretary
Gary Weiss	Secretary
Michael Rodin	

ABSENT:

John Coumatos	Vice Chairman
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THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Joseph J. Kearney	Executive Director
Joseph Foarile	Chief Financial Officer
Colleen Pereira	Administrative Director
Nicholas Terzulli	Director of Business Development
Edward Ambrosino, Esq.	General Counsel
Paul O'Brien, Esq.	Bond/Transaction Counsel
Milan Tyler, Esq.	Bond/Transaction Counsel

The attached resolution no. 2015-13 was offered by M. Rodin, seconded by C. Fusco:

Resolution No. 2015-13

RESOLUTION TAKING FURTHER OFFICIAL ACTION TOWARD AND APPROVING
THE ACQUISITION AND STRAIGHT LEASING OF A CERTAIN PROJECT
FOR RXR NORTH HILLS PHASE I OWNER LLC

WHEREAS, the Nassau County 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 674 of the 1975 Laws of New York, as amended, constituting Section 922 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, Midtown North Hills, LLC, an affiliate of RXR North Hills Phase I Owner LLC (the "Applicant"), submitted an application for financial assistance (the "Original Application") to the Agency requesting that the Agency consider undertaking a project (the "Project") consisting of the following: (A)(1) the acquisition of an interest in two parcels of land, which in the aggregate comprise approximately 2.44 acres of land, located at 85-95 Long Island Expressway South Service Road, Incorporated Village of North Hills, Town of North Hempstead, County of Nassau, New York (currently Section: 08; Block: A; Lots: 901 and 902) (collectively, the "Land"), (2) the construction of two (2) pairs of 4-story buildings on the Land above one level of parking, together with related improvements to the Land (collectively, the "Building"), and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the "Equipment"), all of the foregoing for use by the Applicant as a residential facility comprised of approximately 124 apartment units, of which not less than 60 apartment units shall initially be rental units (collectively, the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing; and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, pursuant to Resolution 2013-71 and Resolution 2014-22 (both attached hereto as Exhibit A) duly adopted by the members of the Agency on December 5, 2013 and April 10, 2014, respectively, the Agency approved the Project and the granting of financial assistance as more fully described therein (together, the "Prior Resolution") (capitalized terms used but not defined herein are defined in the Prior Resolution); and

WHEREAS, the Applicant has advised the Agency that the Project Costs have increased by at least \$11,000,000 and has submitted a request to the Agency (the "Application") for additional financial assistance in the form of exemptions or partial exemptions from mortgage recording taxes and sales and use taxes with regard to same (the "Additional Financial Assistance"); and

WHEREAS, in accordance with Section 859-a of the Act, any approval of the Additional Financial Assistance is contingent upon, inter alia, a determination by the members of the Agency to proceed with the Additional Financial Assistance following a determination by the Agency that (A) the public hearing and notice requirements and other 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 Additional 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 (collectively, "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 Additional Financial Assistance contemplated by the Agency with respect to the Project, to be mailed on March 19, 2015 to the chief executive officer of Nassau County, New York and of each other affected tax jurisdiction within which the Project Facility is or is to be located; (B) caused notice of the Public Hearing to be published on March 19, 2015 in the Nassau edition of *Newsday*, a newspaper of general circulation available to residents of the County of Nassau, New York; (C) conducted the Public Hearing on April 6, 2014 at 10:30 a.m., local time, at Village Hall, One Shelter Rock Road, Incorporated Village of North Hills, Town of North Hempstead, Nassau County, New York; and (D) prepared a report of the Public Hearing (the "Report") which fairly summarizes the views presented at the Public Hearing and distributed the Report to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act"), and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), the appropriate personnel of the Agency reviewed the environmental assessment form and other materials submitted by the Applicant and made any necessary comments to members of the Agency, and the Agency decided to conduct an uncoordinated review of the Additional Financial Assistance and determined that the granting of the requested Additional Financial Assistance is a Type II action

under SEQRA and that the granting of the requested Additional Financial Assistance will not have a significant effect on the environment; and

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

WHEREAS, the Applicant and/or the Agency will execute and deliver an additional mortgage, a mortgage recording tax affidavit, certain sales tax documents and certain other certifications, documents, instruments and agreements (collectively, the "Transaction Documents");

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

Section 1. The Agency has reviewed the Application and the Report and, based solely upon the representations made by the Applicant to the Agency and the facts and information obtained by the Staff of the Agency and reported to the members of the Agency at this meeting, the Agency hereby ratifies and confirms the following findings and determinations made in the Prior Resolution 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, the employment reasonably expected to be created and/or maintained by the Project, the Project will constitute a commercial facility and, therefore, the Project constitutes a "project" within the meaning of the Act;
- (b) the granting by the Agency of the Additional Financial Assistance with respect to the Project will be an inducement to the Applicant to undertake the Project in Nassau County, New York;
- (c) the Applicant would not undertake and continue the Project in Nassau County, New York, without the granting of the Additional Financial Assistance by the Agency;
- (d) the completion of the Project Facility, the lease thereof by the Agency to the Applicant and the operation thereof by the Applicant will not result in the removal of a facility or plant of the Applicant or any other proposed user or occupant 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 proposed user or occupant of the Project Facility located within the State (but outside of Nassau County);

(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 granting of the Additional Financial Assistance by the Agency with respect to the Project will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of Nassau County, New York and the State and improve their standard of living, and thereby serve the public purposes of the Act;

(h) there is a shortage of full-service, single-story homes with amenities targeted to the empty nester and retiree market in the County to satisfy the needs of the residents within the County, and the Project will help to alleviate such shortage of housing facilities; and

(i) in the absence of facilities such as the Project Facility, empty nester and retiree residents of the County may be forced to relocate out of the County to find the housing and amenities that would be provided by the Project Facility. Facilities such as the Project Facility will help prevent the migration of such persons from the County and thereby support the local economy.

Section 2. 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 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, Garden City, New York, as Special Counsel to the Agency with respect to all matters in connection with the Project.

Section 3. The Agency hereby determines that (a) the request for further financial assistance is a Type II action under SEQRA and will not have an adverse impact on the environment, and (b) the Agency has fully complied with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the Project.

Section 4. Having considered fully all comments received at or in connection with the Public Hearing, the Agency hereby further determines to grant the Additional Financial Assistance.

Section 5. The Agency hereby approves the Applicant as the recipient of the Additional Financial Assistance.

Section 6. The Agency is hereby authorized to (a) execute a mortgage and/or other documents and execute, amend, restate or otherwise modify the Lease and the other Transaction Documents so as to accomplish the intent hereof, and (b) 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 7. The form and substance of such amendment documents similar to the forms used by the Agency with respect to prior projects, together with such changes as the Chairman, the Vice Chairman or the Executive Director may hereafter deem necessary or appropriate, are hereby approved. The Chairman, the Vice Chairman, the Executive Director and the Administrative Director are hereby authorized, on behalf of the Agency, acting together or individually, to execute and deliver such amendment documents 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 agreement, approval and consent by such person(s) shall be conclusive evidence of such approval.

Section 8. The Chairman, the Vice Chairman, the Executive Director and the Administrative Director 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 Lease) of the Agency.

Section 9. 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 10. 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 or Executive Director of the Agency to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution. 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 11. 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 Special Counsel to the Agency to include such terms and conditions in all relevant Transaction Documents.

Section 12. The Chairman, the Vice Chairman, the Executive Director and the Administrative Director 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 13. This Resolution shall take effect immediately and shall be effective for ninety (90) days from the date of its adoption.

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

Timothy Williams	VOTING	Aye
John Coumatos	EXCUSED	
Gary Weiss	VOTING	Aye
Christopher Fusco	VOTING	Aye
Michael Rodin	VOTING	Aye

The foregoing Resolution was thereupon declared duly adopted.

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

We, the undersigned [Vice] Chairman and [Assistant] Secretary of the Nassau County Industrial Development Agency (the "Agency"), do hereby certify that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on April 7, 2015 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.


WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

WE FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, we have hereunto set our hand and affixed the seal of the Agency this ____ day of April, 2015.



[Vice] Chairman



[Asst.] Secretary

(SEAL)