

LCS Harborside LLC - Approving Resolution

A regular meeting of the Nassau County Industrial Development Agency (the “Agency”) was convened in public session at the Theodore Roosevelt Executive & Legislative Building, Legislative Chambers, 1st Floor, 1550 Franklin Avenue, Mineola, Nassau County, New York on June 27, 2024 at 6:45 p.m., local time.

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

PRESENT:

William H. Rockensies	Chair
John Coumatos	Asst. Treasurer
Marco Troiano	Member
Joseph Manzella	Member
Marissa Brown	Member

THE FOLLOWING PERSONS WERE ALSO PRESENT:

Sheldon L. Shrenkel	Chief Executive Officer/Executive Director
Anne LaMorte	Chief Financial Officer
Colleen Pereira	Administrative Director
Carlene Wynter	Compliance Assistant
Nicole Gil	Administrative Assistant
Ben Ciorra	Director of Operations
Judge Anthony Marano (Ret.)	Agency Counsel
Andrew D. Komaromi, Esq.	Bond/Transactional Counsel

EXCUSED:

Raymond Pinto	Secretary
Reginald A. Spinello	Member

The attached resolution No. 2024-30 was offered by Marissa Brown, seconded by Marco Troiano.

RESOLUTION TAKING OFFICIAL ACTION TOWARD AND APPROVING
THE ACQUISITION AND STRAIGHT LEASING OF A CERTAIN PROJECT
FOR LCS HARBORSIDE 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 1 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, LCS HARBORSIDE LLC, a limited liability company organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York, together with entities formed or to be formed on its behalf (collectively, the “Applicant”), have presented an application for financial assistance (the “Application”) to the Agency, which Application requests that the Agency consider undertaking a project (the “Project”) consisting of the following: (A) (1) the acquisition of an interest in an approximately 8.9 acre parcel of land located at 300 East Overlook, Port Washington, Town of North Hempstead, County of Nassau, New York (the “Land” or “Project Site”), (2) the renovation of an approximately 924,233 square foot, six-story building on the Land (collectively, the “Building”), together with related improvements to the Project Site, and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the “Equipment”), all of the foregoing to constitute a continuing care retirement community for the benefit of eligible senior citizens, consisting of approximately 229 independent living units, 44 enriched housing units and 56 skilled nursing beds, retail space and amenities and related infrastructure such as roads, sewers, utilities, parking lots, drainage areas, ponds and maintenance facilities (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 in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and 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 as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on March 27, 2024 (the “Preliminary Inducement Resolution”), the Agency, following a review of the Application, determined to take preliminary action toward the acquisition and straight leasing of the Project for the Company and made a determination to proceed with the Project; and

WHEREAS, any approval of the Project is contingent upon, among other things, a final determination by the members of the Agency to proceed with the Project following determinations by the Agency that: (A) the public hearing and notice requirements and other procedural requirements contained in the Act relating to the Project and the Financial Assistance 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, 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 statutes, codes, laws, rules and regulations of any governmental authority having jurisdiction over the Project 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 June 10, 2024 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 June 9, 2024 in the Nassau edition of Newsday, a newspaper of general circulation available to residents of the County of Nassau, New York; (C) caused the Public Hearing to be conducted on June 24, 2024, at 10:30 a.m., local time, at the Town of North Hempstead Town Hall, 220 Plandome Road, Manhasset, Town of North Hempstead, Nassau County, New York, in furtherance of the provisions of Section 859-a of the General Municipal Law requiring interested parties be provided a reasonable opportunity, both orally and in writing, to present their views with respect to the Project, (D) caused the Public Hearing to be streamed on the Agency’s website in real-time and caused a recording of the Public Hearing to be posted on the Agency’s website, all in accordance with Section 857 of the Act; and (E) caused a report of the Public Hearing (the “Report”) to be prepared which transcribes the views presented at the Public Hearing and distributed the Report to the members of the Agency; and

WHEREAS, in accordance with Section 874(4) of the Act, (A) the Executive Director of the Agency caused notice of a meeting of the Agency with respect to the proposed deviation from the Agency’s uniform tax exemption policy to be mailed on June 10, 2024 (the “IDA Meeting”) to the chief executive officer of each affected tax jurisdiction and to district clerk of the applicable school district; and (B) the members of the Agency conducted the IDA Meeting on the date hereof and reviewed any written comments or correspondence received with respect to the proposed deviation from the Agency’s uniform tax exemption policy and approved the proposed deviation; 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 adopted pursuant thereto by the Department of Environmental Conservation of the State of New

York (the “Regulations”, and 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 the members of the Agency, and by resolution of the members of the Agency adopted immediately prior to the adoption hereof, the Agency decided to conduct an uncoordinated review of the Project and determined that the Project will not have a significant adverse environmental impact and that an environmental impact statement will not be prepared; 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, (A) the Applicant will execute and deliver a certain bargain and sale deed, assignment of lease or company lease to the Agency, pursuant to which the Applicant will convey an interest in the Land and the Building to the Agency (the “Conveyance Instrument”), (B) the Applicant will execute and deliver a certain Bill of Sale (the “Bill of Sale to Agency”) to the Agency, pursuant to which the Applicant will convey to the Agency its interest in the Equipment, (C) the Applicant will execute and deliver a Lease Agreement or Sublease Agreement, (the “Lease”) between the Agency and the Applicant, pursuant to which the Agency will grant to the Applicant a leasehold interest in the Project Facility and pursuant to which and/or a Project Agreement by and between the Agency and the Applicant, the Agency will appoint to the Applicant as its agent (“Project Agreement”), (D) the Applicant will cause to be executed and delivered a certain Environmental Compliance and Indemnification Agreement (the “Environmental Indemnification”) pursuant to which the Agency will be indemnified from and against certain losses, costs, damages and liabilities, (E) the Applicant will execute and deliver or cause to be executed and delivered a certain Payment in Lieu of Taxes Agreement (the “PILOT Agreement”) to the Agency, and, to secure the obligations thereunder, a certain Mortgage and Assignment of Leases and Rents in favor of the County of Nassau, New York (the “PILOT Mortgage”), and (F) the Applicant will execute and deliver and/or cause to be executed and delivered certain other certificates, documents, instruments and agreements related to the Project (together with the Conveyance Instrument, the Bill of Sale to Agency, the Lease, the Project Agreement, the Environmental Indemnification, the PILOT Agreement and the PILOT Mortgage, collectively, the “Transaction Documents”);

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

Section 1. In accordance with Section 859-a of the Act, the Agency has caused to be 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 Analysis and the Report and, based 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 and reviewed by the members of the Agency at this meeting (including, without limitation, the facts and information set forth in the Staff Review of the Application), 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 makes the following findings and determinations with respect to the Project:

(a) the granting of the Financial Assistance by the Agency to the Applicant is necessary to induce the Applicant to proceed with the Project. This finding of the Agency is further supported by the “Cost Benefit Analysis Substantiation of Need for Nassau County IDA Financial Assistance” prepared by the Grow America (formerly National Development Council) (the “Grow America Report”); The Grow America Report, *inter alia*, focused on establishing the level of partial exemptions from real property taxes under the PILOT Agreement to ensure that the level of Financial Assistance is the lowest necessary to induce the Applicant to proceed with the Project. Grow America Report’s conclusion also takes into account sales and use tax exemption and mortgage tax exemption components of the Financial Assistance herein approved with respect to the Project Facility (as set forth in Section 6 hereof) and the real property tax exemption herein approved with respect to the Project Facility (as set forth in Section 6 hereof). The Grow America Report concludes that: “The financial benefit is regarded as necessary and appropriate in order for the project to move forward. There is no incidence of undue enrichment because of the IDA financial incentive package.”

(b) 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;

(c) the Financial Assistance is reasonably necessary to induce the Applicant to acquire and renovate the Project Facility and to maximize the Applicant's employment within Nassau County, New York;

(d) the completion of the Project Facility by the Applicant as agent of the Agency, the granting of an interest therein 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, occupant or tenant 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, occupant or tenant of the Project Facility located within the State (but outside of Nassau County). 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 is located entirely within the boundaries of the Town of North Hempstead, Nassau County, New York, and is not located within the boundaries of any incorporated village;

(h) taking into account the stated purposes of the Act being the promotion of employment opportunities and the prevention of economic deterioration and having reviewed the Economic and Fiscal Impact Report prepared by Camoin Associates for the Agency regarding the costs benefits and other economic impacts of the Project, the Agency hereby finds that the granting of the 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, will improve their standard of living, and will prevent unemployment and economic deterioration, and thereby serves the public purposes of the Act;

(i) 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 including the prevention of economic deterioration, the job opportunities to be maintained by the Project and as further set forth in Section 1(e) hereof, the Project will constitute a commercial facility and, therefore, the Project constitutes a “project” within the meaning of the Act;

(j) 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

(k) the Project will not result in the removal or abandonment of a plant or facility of the Applicant, or of a proposed user, occupant or tenant of the Project Facility, currently located within Nassau County.

Section 2. The Agency hereby ratifies, confirms and approves all actions heretofore taken by the Chief Executive Officer / Executive Director and the staff of the Agency with respect to the Application, the IDA Meeting 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 Harris Beach PLLC, Uniondale, 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 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 the Public Hearing or otherwise in connection with the Project, the Agency hereby further determines to proceed with the Project and the granting of the Financial Assistance.

Section 5. The Agency hereby approves the Applicant as the lessee/sublessee under the Lease with the Agency and hereby approves the Applicant as the recipient of the Financial Assistance.

Section 6. Based upon the representation and warranties made by the Applicant in its application for financial assistance, subject to the provisions of this resolution, the Agency hereby authorizes and approves (i) the Company, as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an aggregate amount of up to \$2,925,000.00, which result in New York State and local sales and use tax exemption benefits (“sales and use tax exemption benefits”) not to exceed \$252,281.25, (ii) exemptions from mortgage recording tax (excluding the portion of the mortgage recording tax allocated to transportation districts referred to in Section 253(2)(a) of the Tax Law of the State of New York), for one or more mortgages (other than the PILOT Mortgage) in connection with the financing of the acquisition, construction, installation and equipping of the Project Facility and any future financing, refinancing or permanent financing of the costs of acquiring, constructing, installing and equipping the Project Facility in an amount not to exceed \$740,530.50; and (iii) exemptions from real property taxes having an estimated value of \$29,643,467.00, consistent with the deviation set forth in the Deviation Notice, for the reasons set forth in the Deviation Notice and after consideration of the factors set forth in the Tax Exemption Policy.

Section 7. The Agency is hereby authorized to (a) acquire an interest in the Project Facility pursuant to the Conveyance Instrument, the Bill of Sale to Agency and the other Transaction Documents, (b) grant a leasehold interest in the Project Facility pursuant to the Lease and the other Transaction Documents, (c) grant the aforementioned Financial Assistance, (d) execute the PILOT Mortgage for the sole purpose of encumbering its interest in the Project Facility or accept such other collateral as the Chief Executive Officer / Executive Director shall determine to secure the performance by the Applicant of its obligations under the PILOT Agreement, (e) execute one (1) or more fee and leasehold mortgage, assignment of rents and leases, and security agreements in favor of such bank, governmental agency or financial institution as the Applicant may determine (such bank, governmental agency or financial institution, the “Bank”), encumbering the Project Facility, solely to subject to the lien thereof its interest in the Project Facility, all to secure one (1) or more loans made by such Bank to the Applicant with respect to the Project Facility, and (f) 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 8. The form and substance of the Project Agreement, the Conveyance Instrument, the Bill of Sale to Agency, the Lease, the Environmental Indemnification, the PILOT Agreement, the PILOT Mortgage and the other Transaction Documents, in the forms used by the Agency with respect to prior projects, together with such changes as the Chairman, the Vice Chairman or the Chief Executive Officer/Executive Director may hereafter deem necessary or appropriate, are hereby approved. The Chairman, the Vice Chairman, the Chief Executive Officer / Executive Director, Chief Operating Officer and the Administrative Director are hereby authorized, on behalf of the Agency, acting together or individually, to execute and deliver the Conveyance Instrument, the Lease, the PILOT Agreement, the PILOT Mortgage, the other Transaction Documents, and any document with or in favor of the Bank 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 agreement, approval and consent by such person(s) shall be conclusive evidence of such approval.

Section 9. The Chairman, the Vice Chairman, the Chief Executive Officer/Executive Director, the Chief Operating Officer 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 10. 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 11. 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 and Chief Executive Officer/Executive Director 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. 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 12. 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 13. The Chairman, the Vice Chairman, the Chief Executive Officer/Executive Director, Chief Operating Officer 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 14. This Resolution shall take effect immediately and shall be effective for one hundred eighty (180) 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:

William H. Rockensies	VOTING	AYE
John Coumatos	VOTING	AYE
Raymond Pinto	VOTING	Absent
Reginald A. Spinello	VOTING	Absent
Marco Troiano	VOTING	AYE
Joseph Manzella	VOTING	AYE
Marissa Brown	VOTING	AYE

The foregoing Resolution was thereupon declared duly approved.

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

We, the undersigned [~~Assistant~~] Secretary and [~~Vice~~] Chair 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 June 27, 2024, with the original thereof on file in our office, 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 matter 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 hands and affixed the seal of the Agency this 27 day of June, 2024.



[~~Assistant~~] Secretary



[~~Vice~~] Chair