

GLEN COVE CITY SCHOOL DISTRICT

Administrative Offices

Glen Cove, New York

AGENDA

Regular Meeting – Board of Education – Thursday, August 18, 2016 – 6:30pm

Robert M. Finley Middle School

I. **Opening Ceremony** – Salute to Flag and Moment of Silence

II. **Public Participation**

This section gives opportunity to residents who wish to raise a question or make a brief statement on agenda items.

III. **Business Affairs**

a. Operations

1. Garvies Point Proposed Redevelopment Resolution

BE IT RESOLVED, the Board of Education of the Glen Cove City School District hereby approves the Consent Resolution proposed by the Glen Cove Industrial Development Agenda, in the form attached hereto.

BE IT FURTHER RESOLVED, the Board of Education of the Glen Cove City School District hereby approves the Impact and Supplemental Fee Agreement proposed by RXR Glen Isle Partners, LLC, in the form attached hereto.

BE IT FURTHER RESOLVED, that the Board of Education of the Glen Cove City School District hereby authorizes the Board President to execute the necessary documents to effectuate said Resolution and Agreement, on behalf of the Board of Education.

IV. **Public Participation**

This section gives opportunity to residents who wish to raise a question or make a brief statement on matters including, but not limited to, agenda items.

V. **Executive Session (if necessary)**

VI. **Adjournment**

CONSENT RESOLUTION – SCHOOL DISTRICT
(Garvies Point Project)

A meeting of the Glen Cove City School District (the “School District”) convened on August 18, 2016 at 6:30 p.m.

The following resolution was duly offered and seconded, to wit:

Resolution No. _____

**RESOLUTION OF THE GLEN COVE CITY SCHOOL DISTRICT
CONSENTING TO THE AMOUNT AND ALLOCATION OF CERTAIN IN
LIEU OF TAX PAYMENTS FOR THE GARVIES POINT PROJECT**

WHEREAS, pursuant to that certain Contract for Sale of Land for Private Development by and among the Glen Cove Industrial Development Agency (“Agency”), Glen Cove Community Development Agency (“GCCDA”), and RXR Glen Isle Partners LLC (the “Company”), dated as of May 14, 2003, as amended and assigned (the “Land Disposition Agreement”), the Agency is to take actions under the New York Urban Renewal Law and as otherwise permitted by law to effectuate the Urban Renewal Plan established by the GCCDA; and

WHEREAS, the Company has submitted an application (the “Application”) to the Agency requesting the Agency's assistance with respect to a certain project (the “Garvies Point Project”) consisting of: (A) the acquisition of approximately 56 acres of land located on Garvies Point Road, Herb Hill Road and Dickson Street (the “Land”) subject to a reservation of an easement in favor of the Agency for certain public use areas; (B) as part of a unified project to effectuate the purposes of the Urban Renewal Plan, the acquisition and construction on the Land by the Company of a planned smart growth community of certain buildings and other improvements containing: (i) certain public use improvements (the “Public Use Improvements”); (ii) private improvements on the balance of the Land (the “Private Use Areas”) with approximately 486 rental residential units, 513 condominium units and 111 workforce housing units (55 for rent and 56 for sale) (collectively, “Residential Units”), and retail, restaurant, cultural and related space (collectively, the “Commercial Space”, and together with the Residential Units, the “Private Use Improvements” and together with the Public Use Improvements, the “Improvements”); and (C) the acquisition and installation in and around the Improvements of certain items of machinery, personal property, fixtures and equipment (the “Equipment”, and together with the Land and the Improvements, the “Facility”); and

WHEREAS, the Glen Cove Local Economic Assistance Corporation (the “Issuer”) has determined to issue its Tax-Exempt and Taxable Revenue Bonds, (“Garvies Point Public Improvement Project”), Series 2016, in the approximate aggregate principal amount of \$97,000,000, plus reserves, capitalized interest and other costs of issuance (the “Public Improvement Bonds”) for the purpose of financing a portion of the costs of the Public Use

Improvements and related costs and expenses (the "Public Improvement Project") to be undertaken by the Company as agent of the Agency; and

WHEREAS, the Public Improvement Bonds will fund the necessary public amenities, infrastructure and other improvements to make the Garvies Point Project a reality and generate tax revenues. After interest on the Public Improvement Bonds is paid, amounts paid by the Company in lieu of taxes will be paid to the Affected Tax Jurisdictions in the amounts described in Schedule A (the "Priority Tax Payments"). After payment of interest to the bondholders, the Priority Tax Payments in the amounts indicated on Schedule A for the years 2017 through 2038 will be paid, then the bondholders will receive repayment of their principal, and thereafter any and all residual amounts as indicated in Schedule A for the years 2044 through 2056 will be paid to the Affected Tax Jurisdictions as payments in excess of the Priority Tax Payments already received. In furtherance of foregoing, the Company and the Agency have requested the consent of the School District pursuant to and in accordance with General Municipal Law Section 858(15) such that the payments in lieu of taxes can be distributed based on the Priority Tax Payments; and

WHEREAS, after considering the positive financial impact of the Garvies Point Project on the Affected Tax Jurisdictions, and the direct impacts of development of the Facility, including positive impacts on the tax base of the School District, the School District desires to consent to the above described Priority Tax Payments.

NOW, THEREFORE, BE IT RESOLVED BY THE SCHOOL DISTRICT AS FOLLOWS:

Section 1. The School District hereby consents to the amount and allocation of the Tax Payments, as well as the deviation from its Uniform Tax Exemption Policy, as shown in Schedule A and described above, as follows:

- (i) the fixed payments with a fixed allocation to the School District and other Affected Tax Jurisdictions based on the Priority Tax Payments payable after interest on the Public Improvement Bonds, as shown in Schedule A herein, for the years 2017 through 2038, then the bondholders will receive repayment of their principal, and thereafter any and all residual amounts as indicated in Schedule A for the years 2044 through 2056 will be paid to the Affected Tax Jurisdictions as payments in excess of the Priority Tax Payments, provided, that the actual amounts of the Priority Tax Payments shown in Schedule A may vary due to final structure and pricing of the Public Improvement Bonds, as well as other variables; and
- (ii) the Agency amending and segregating the agreements from time to time to provide for assignment to affiliates, assigns or successors of the Company, and to provide for several payments by Condo Owners.

Section 2. The Superintendent of the School District is hereby authorized to execute and deliver any and all agreements necessary or related to the foregoing.

Section 3. This Resolution shall take effect immediately.

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

<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
[]	[]	[]	[]
[]	[]	[]	[]
[]	[]	[]	[]
[]	[]	[]	[]
[]	[]	[]	[]

The Resolution was thereupon duly adopted.

SCHEDULE A

After payment of principal and interest on the Public Improvement Bonds as set forth in the Resolution, payments made in lieu of taxes shall be distributed as follows:

<u>Year</u>	<u>School</u>	<u>City</u>	<u>County</u>	<u>Library</u>
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*years where no payments are reflected indicate years when it is contemplated that the apartment buildings with rental units will be on the tax rolls paying the Affected Tax Jurisdictions directly.

Schedule A: Garvies Point Redevelopment Project Tax Revenue Deviation Schedule

Year	Total PILOT Revenues	Expected Bond Debt Service & Reserves*	City Priority ATJ Distribution & Revenue Surplus	School Priority ATJ Distribution & Revenue Surplus	County Priority ATJ Distribution & Revenue Surplus	Library Priority ATJ Distribution & Revenue Surplus
Total	\$614,843,147	\$282,972,321	\$131,194,160	\$174,848,844	\$21,303,133	\$4,524,688
2017	842,417	487,087	-	250,000	100,000	5,330
2018	1,967,366	1,561,264	-	300,000	100,000	6,091
2019	3,792,334	2,728,924	470,170	571,902	5,387	15,951
2020	4,929,578	3,177,757	637,143	1,079,560	21,980	13,139
2021	6,664,056	4,438,863	983,416	1,197,064	28,024	16,689
2022	12,174,304	8,797,594	996,753	1,328,327	34,301	17,829
2023	12,415,865	9,763,790	1,068,110	1,510,491	43,734	19,741
2024	12,661,699	9,640,744	1,153,830	1,794,468	50,000	22,657
2025	12,912,401	9,835,359	1,170,306	1,833,658	50,000	23,078
2026	13,168,067	10,034,421	1,186,912	1,873,231	50,000	23,502
2027	13,428,794	10,238,017	1,203,661	1,913,196	50,000	23,931
2028	13,694,694	10,446,238	1,230,524	1,943,559	50,000	24,363
2029	13,965,839	10,659,173	1,247,535	1,984,331	50,000	24,800
2030	14,242,363	10,876,920	1,264,665	2,025,517	50,000	25,241
2031	14,524,362	11,099,569	1,281,379	2,067,126	50,000	25,686
2032	14,811,944	11,327,221	1,299,418	2,109,170	50,000	26,135
2033	15,105,220	11,559,970	1,317,007	2,151,654	50,000	26,589
2034	15,404,304	11,797,922	1,334,747	2,194,587	50,000	27,048
2035	15,709,308	12,036,140	1,352,642	2,242,978	50,000	27,549
2036	16,020,353	12,284,804	1,370,695	2,286,838	50,000	28,017
2037	16,337,556	12,544,021	1,388,909	2,326,175	50,000	28,452
2038	17,016,722	13,159,506	1,407,287	2,370,898	50,000	28,929
2039	16,759,528	16,759,528	-	-	-	-
2040	16,544,969	16,844,969	-	-	-	-
2041	17,176,966	17,176,966	-	-	-	-
2042	17,515,514	17,515,514	-	-	-	-
2043	17,860,738	17,860,738	-	-	-	-
2044	18,212,772	(2,700,702)	8,365,390	10,695,872	1,668,511	313,702
2045	18,571,753	-	7,428,701	9,471,594	1,892,861	276,576
2046	18,937,813	-	7,575,125	9,658,284	1,420,336	284,067
2047	19,311,097	-	7,724,439	9,848,659	1,448,332	289,865
2048	19,691,744	-	7,876,697	10,042,789	1,476,881	295,376
2049	20,079,899	-	8,031,960	10,240,749	1,505,992	301,198
2050	20,475,713	-	8,190,285	10,442,614	1,535,678	307,136
2051	20,879,335	-	8,351,734	10,648,461	1,565,950	313,190
2052	21,290,919	-	8,516,368	10,858,369	1,596,819	319,364
2053	21,710,625	-	8,684,350	11,072,419	1,628,297	325,659
2054	22,138,611	-	8,855,444	11,290,692	1,660,396	332,079
2055	22,575,040	-	9,030,016	11,513,270	1,693,128	338,626
2056	23,020,080	-	9,208,032	11,740,241	1,726,506	345,301

*Last year of Expected Bond Debt Service is negative due to release of debt service reserve fund with the final expected payment. Extra funds are released via the ATJ Distributions

Subject to change in accordance with Notice of Contemplated Deviation.

IMPACT AND SUPPLEMENTAL FEE AGREEMENT

This **IMPACT AND SUPPLEMENTAL FEE AGREEMENT**, made and entered into as of this ____ day of August, 2016 (this "Agreement"), is by and between the **BOARD OF EDUCATION OF THE GLEN COVE CITY SCHOOL DISTRICT**, an educational institution organized and existing under the laws of the State of New York, having offices at Dosoris Lane, Glen Cove, New York 11542 (the "School District"), and **RXR GLEN ISLE PARTNERS LLC**, a Delaware limited liability company authorized to do business in the State of New York, having offices at 626 RXR Plaza, Uniondale, New York 11556 (the "Developer," together with the School District, the "Parties").

WITNESSETH:

WHEREAS, Developer is the redeveloper of the mixed-use waterfront project known as Garvies Point (the "Project"), encompassing approximately 56 acres on the north side of Glen Cove Creek in the City of Glen Cove (the "Project Site"); and

WHEREAS, in furtherance of the Project, the Glen Cove Local Economic Assistance Corporation has determined to issue Tax-Exempt and Taxable Revenue Bonds (the "Bonds") for the purpose of financing a portion of the costs of certain public use improvements to be undertaken by the Developer as agent of the Glen Cove Industrial Development Agency (the "Agency"); and

WHEREAS, the Agency and Developer have agreed to enter into a certain Master Tax Agreement pursuant to which the Developer shall make certain in-lieu of tax payments (the "PILOT") to the Agency for the benefit of the holders of the Bonds, as well as the School District, the City of Glen Cove, Nassau County, and the Glen Cove Public Library (collectively, the "Affected Tax Jurisdictions"); and

WHEREAS, in furtherance of foregoing, the Agency and Developer requested the consent of the School District pursuant to General Municipal Law Section 858(15), such that the payments in lieu of taxes can be distributed to the Affected Tax Jurisdictions in a manner other than in the same proportion as taxes would be distributed; and

WHEREAS, prior to considering the consent to the in-lieu of tax payments, the School District expressed concerns about: (1) potentially experiencing a revenue shortfall in any given year if the number of new pupils generated by the Project was higher than projected, (2) the impact to the annual budget of the School District, if the School District failed to receive timely notice of the full amount of the PILOT for the subsequent school year, and (3) the impact of the PILOT under Section 2023-a of the Education Law; and

WHEREAS, Developer agreed to cover a portion of any potential annual shortfall in a given school year resulting from the generation of school aged children from the Project, as well as to provide annual timely notice to the School District of the PILOT payments to be received by the School District in the subsequent school year; and

WHEREAS, the School District also expressed its desire to establish an Environmental Education Program at the Project Site for the benefit of the pupils attending the Glen Cove schools, and a scholarship program for Glen Cove School District students attending college, and Developer expressed its desire to coordinate with and establish said programs for the School District in these respects, provided, that the Project is built;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the School District and Developer agree, as follows:

1. The above-referenced "Whereas" clauses are incorporated herein by reference.
2. The Effective Date of this Agreement is the earlier of the date (i) title in all or a portion of the Project Site is transferred to the Developer, and any judicial or administrative appeal or challenge to said transfer is finally resolved, or (ii) Developer commences construction of any phase of the Project.
3. The Developer's payment obligations under this Agreement are not intended to be and shall not be deemed to be in lieu of real property tax payments, a tax payment, or any other type of payment that would be subject to the Master Tax Agreement, but rather are intended to provide revenues for any shortfalls or unanticipated impacts to the School District based upon the implementation of the Project.
4. **Impact Fees for School Aged Children.**
 - a. Beginning in the third (3rd) year following the effective date of the Master Tax Agreement, or when the Project is fully built, whichever date is earlier, and continuing through the term of the PILOT, the Parties shall work together in good faith to conduct an annual audit (the "Audit") by no later than August 1st of each year. The first Audit shall be conducted by August 1, 2019, or earlier if the Project is completed prior to year three (3).
 - b. The Audit shall calculate the number of School Age Children generated by the Project in the preceding school year, multiplied by the actual cost to educate and provide services to each of the general and/or special education School Aged Children residing at the Project Site, to be calculated using the non-resident pupil tuition rates issued by the New York State Education Department, which shall be provided to the Developer and Auditor by the School District on or about July 1st every school year (the "School Costs"). The Audit shall also identify the total in-lieu-of tax payments and any other property taxes received by the School District in connection with the Project in the preceding school year (the "School PILOT and Tax Revenue"). The term Tax Revenue hereunder shall mean all property taxes received from properties related to the Project, including, but not limited to, tax revenues from the rental buildings and commercial properties developed on the Project Site.
 - c. The Parties shall cooperate to select a mutually acceptable independent and qualified Auditor on or before August 1, 2018.

d. The Developer shall be solely responsible for all costs associated with the Audit.

e. In the event that the Audit demonstrates that the School Costs exceed the School PILOT and Tax Revenue received for the preceding School year ("Annual Shortfall"), Developer shall pay annually the difference to the School District, up to an amount not to exceed (i) One Hundred Thousand Dollars (\$100,000.00) in years three and four of the PILOT, (ii) Two Hundred Fifty Thousand Dollars (\$250,000.00) in years five and six of the PILOT, and (iii) Three Hundred Fifty Thousand Dollars (\$350,000.00) in year seven of the PILOT through the term of the PILOT (each potential annual payment, an "Annual Shortfall Payment").

f. Any Annual Shortfall Payment(s) owed by Developer to the School District pursuant to Paragraph 4(e) of this Agreement shall be due and payable to the School District within sixty (60) days from the completion of the Audit.

g. Notwithstanding anything to the contrary in Paragraph 4(a) in this Agreement, the Parties shall cooperate to endeavor that all Audits be completed and delivered to the Parties within thirty (30) days of delivery of the non-resident pupil tuition rates to the Developer and Auditor by the School District.

h. Any party who in good faith objects to the outcome of the Audit shall notify the other party, in writing, within thirty (30) business days from the date the objecting party receives the Audit.

i. In the event that a party timely objects to the outcome of the Audit, the Parties shall endeavor to resolve amicably by negotiation any such dispute. The Parties shall meet within ten (10) business days of the objecting party's written notice in an effort to resolve the dispute, and the date by which the Annual Shortfall Payment for the subject year shall be due shall be the later of (x) thirty (30) days after the date of resolution of the dispute or (y) sixty (60) days from the completion of the Audit.

5. School PILOTs.

a. Commencing on January 15, 2017 and every January 15th thereafter through the term of the PILOT in 2056, Developer agrees to provide the School District with annual written notice of the total School PILOT payments to be received for the subsequent School District fiscal year. In the event that Developer fails to give notice to the School District by January 15th of each year, the School shall deliver to Developer a written notice of default, and in the event that Developer does not cure said default and provide the proper notice herein within three (3) business days, Developer shall be responsible for the full annual School PILOT payment due to the School District for the subsequent School District fiscal year as set forth in Schedule A to the Consent Resolution at Column 5 titled "School Priority ATJ Distribution & Revenue Surplus" for years 2017 through 2056. By way of example, the School District is to receive \$250,000.00 in year 2017-2018 and \$11,740,241.00 in 2056-2057 in School PILOTs and Tax Revenues. For avoidance of doubt, the Parties understand that Developer is not guaranteeing the specific amounts set forth in Schedule A to the Consent Resolution or in the Master Tax

Agreement. Said amounts shall depend upon the timely completion of the Project, and the requirements of the land owners at the Project Site to comply with their legal payment obligations under the applicable statutes and contractual agreements.

b. Said School PILOTs and Tax Revenues shall be exclusive of and not include any additional fees received by the School District, including, but not limited to, impact or supplemental fees, benefits, or additional taxes generated for the Glen Cove community during the full term of the PILOT, provided, that property taxes from the rental units and commercial properties as part of the Project shall be included herein.

6. **Establishment of an Educational Program at the Project Site.** The Developer shall work together in good faith with the School District to establish an Environmental Education Program, or comparable educational program (the "Educational Program") in the public use improvements area (the "Public Use Improvement Areas") of the Project Site for the benefit of the pupils attending the Glen Cove schools, including, but not limited to, assisting in programming and arranging for educational activities at the Project Site. The Developer shall make an initial contribution to the School District for this Program in the amount of Fifty Thousand Dollars (\$50,000.00) on July 1, 2018, and a payment of Ten Thousand Dollars (\$10,000.00) annually beginning on July 1, 2019 through the term of the PILOT, in support of the Educational Program. The Developer shall use reasonable efforts to provide the School District with a non-exclusive location and habitable space on the Public Use Improvement Areas or an equivalent area in the Project that is reasonably suitable year-round for operating the Educational Program during the term of the PILOT at no cost to the School District. The Developer shall ensure that the separate Public Use Easement Agreement to be entered into between Developer and the Agency regarding the public use of the Public Use Improvement Areas includes an express provision and authorization that the Educational Program herein shall constitute in perpetuity a permitted use within the Public Use Improvement Areas.

7. **Scholarship Program.** In connection with the Educational Program hereinbefore described in Paragraph 6, during the term of the PILOT, the Developer agrees to establish and deliver to the School District an annual scholarship for the benefit of Glen Cove City School District students attending college in the amount of Ten Thousand Dollars (\$10,000.00). The scholarships shall be awarded by the School District to students who exhibit an interest in pursuing the studies of science, including environmental sciences and marine biology. The School District and the Developer shall work together to establish the appropriate naming and other mechanisms for recognizing Developer's role in sponsoring the Educational and Scholarship Program herein.

8. This Agreement shall not be modified, amended, or superseded except by written instrument executed by the Parties.

9. This Agreement may not be assigned by either party without the prior written consent of the other party, which shall not be unreasonably withheld, delayed or denied, provided, Developer shall have a pre-approved right to assign its interests hereunder to any successor owner or owners of the rental buildings at the Project Site.

10. This Agreement shall be enforceable by the School District in any action or proceeding in law or in equity for injunctive relief, damages or any other relief against the present or future owner(s) of the Project Site and their successors and assigns. In the event enforcement proceedings are brought by the School District and the School District is successful in prosecuting same, the School District shall be reimbursed for all reasonable costs and expenses, including attorney's fees, incurred in connection therewith.

11. The terms of this Agreement cannot be waived or modified, except by an express agreement in writing signed by both Parties. There are no representations, promises, warranties, covenants or undertakings other than those contained in this Agreement, which represent the entire understanding of the Parties. The failure of either party hereto to enforce, or the delay by either party in enforcing, any of its rights under this Agreement shall not be deemed a waiver or a modification thereof and either party may, within the time provided by applicable law, commence appropriate legal proceedings to enforce any or all of such rights.

12. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

13. Developer hereby represents that its parent company, RXR Glen Isle Holdings, shall guarantee Developer's obligations hereunder effective immediately, and until such time as Developer may assign its interests hereunder to any successor owner or owners of the rental buildings at the Project Site, in which case said guarantee shall terminate. The Parties shall cooperate to enter into any agreement(s) necessary to memorialize the guarantee established in this Paragraph 13.

14. This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws of the State of New York without regard to conflicts or choice of law provisions that would defer to the substantive laws of another jurisdiction. Each of the Parties hereto consents to the jurisdiction of any state court located within the County of Nassau, State of New York, or federal court in Federal District Court for the Eastern District for New York located in the County of Nassau, State of New York, and irrevocably agrees that all actions or proceedings relating to this Agreement must be litigated in such courts, and each of the parties waives any objection which it may have based on improper venue or *forum non conveniens* to the conduct of and proceeding in any such court.

15. This Agreement is not made for the benefit of any other person or entity than the Parties hereto, and no such other person or entity shall be entitled to enforce, or assert any claim arising out of or in connection with this Agreement, except with respect to successors and assigns set forth in Paragraph twelve (12) herein.

16. Developer represents and warrants: 1) that Developer has no obligations, legal or otherwise, inconsistent with the terms of this Agreement; 2) that the covenants and performance of the services to be provided in this Agreement do not and will not violate any applicable law, rule or regulation or any proprietary or other right of any third party; and 3) that Developer has not entered into or will not enter into any Agreement (whether oral or written) in conflict with this Agreement.

17. This Agreement constitutes the entire agreement between the Parties, and all other representations or statements heretofore made, verbal or written, are merged herein.

18. The undersigned representative of each party hereto hereby represents and warrants that the undersigned is an officer, director, or agent of such party with full legal rights, power and authority to enter into this Agreement on behalf of such party and bind such party with respect to the obligations enforceable against such party in accordance with the terms of this Agreement.

19. This Agreement may be executed in several counterparts and all such executed counterparts shall constitute a single agreement, binding on all of the Parties hereto, and their successors and assigns, notwithstanding that all of the Parties hereto are not signatories to the original or to the same counterpart. Further, a copy of an electronic or facsimile signature shall have the same force and effect as if it were an original signature.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

**BOARD OF EDUCATION OF THE
GLEN COVE CITY SCHOOL
DISTRICT**

By: _____
Name:
Title:

RXR GLEN ISLE PARTNERS LLC

By: _____
Name:
Title: