

## **AMENDMENT NO. 5 TO CONTRACT FOR SALE OF LAND FOR**

### **PRIVATE REDEVELOPMENT**

This Amendment No. 5 to Contract for Sale of Land for Private Redevelopment, which amendment is dated June 24, 2014 (“Fifth Amendment”), amends that certain Contract for Sale of Land for Private Redevelopment, dated as of May 14, 2003, as amended by Amendment No. 1, dated April 12, 2005 (“First Amendment”), Amendment No. 2, dated September 9, 2008 (“Second Amendment”), Amendment No. 3, dated October 14, 2009 (“Third Amendment”), and Amendment No. 4, dated June 29, 2012 (“Fourth Amendment”), by and among GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York (which, together with any successor public body or office hereafter designated by or pursuant to Law, is hereinafter called the “IDA”), having its office at 9-13 Glen Street, Glen Cove, New York 11542, GLEN COVE COMMUNITY DEVELOPMENT AGENCY, a public benefit corporation of the State of New York (which, together with any successor public body or office hereafter designated by or pursuant to Law, is hereinafter called the “CDA”), having its office at 9-13 Glen Street, Glen Cove, New York 11542, and RXR GLEN ISLE PARTNERS LLC (formerly known as RexCorp-Glen Isle Partners, LLC) (as assignee of the interest as Redeveloper of GLEN ISLE PARTNERS, LLC, formerly known as Glen Isle Development Company, LLC), a limited liability company organized and existing under the Laws of the State of Delaware and authorized to do business in the State of New York (hereinafter called the “Redeveloper”) and having an office for the transaction of business at 625 RXR Plaza, Uniondale, New York 11747, (together, the Contract for Sale of Land for Private Redevelopment, as amended by the First Amendment, Second Amendment, Third Amendment,

Fourth Amendment and Fifth Amendment, is referred to as the “Agreement”). The IDA and the CDA are sometimes collectively referred to herein as the “Agencies.” IDA, CDA, and the Redeveloper are sometimes collectively referred to herein as the “Parties.”

RECITALS:

WHEREAS, the Parties agree that the amendments to the Agreement provided for herein are necessary or desirable to clarify and/or amend certain provisions of the Agreement in order to facilitate the successful execution of the Project; and

WHEREAS, the Parties recognize that while there may be further amendments to this Agreement as certain matters become further clarified, various sections of the Agreement need to be modified at this time to bring them into conformance with the substance and spirit of the Amendments hereunder.

NOW, THEREFORE, the Agencies and the Redeveloper agree, as follows:

I. Defined Terms. Unless stated specifically herein to the contrary, all undefined capitalized words in this Fifth Amendment shall have the meanings provided in the Agreement.

II. Amendments and Clarifications to the Agreement.

The following Sections of the Agreement are hereby amended, as follows:

1. The second sentence of Section 5.04 (a) shall be deleted, and replaced, as follows:

“The Redeveloper hereby agrees to make the Initial Redeveloper Advances, the Additional Redeveloper Advances (defined below) and the Section 108 Redeveloper Advance (defined below) in accordance with the terms and subject to the conditions set forth below.”

2. The last two sentences of Section 5.04 (c) shall be deleted, and replaced, as follows:

“In the event that the Closing extends beyond March 1, 2014, then Redeveloper and the Agencies shall endeavor in good faith to agree on additional reasonable and actual fees, costs and expenses directly related to the Project, and Redeveloper shall pay same as they are incurred by the Agencies, regardless of the reason for the delay in the Closing, provided that Agencies are not in default of this Agreement (collectively, all of the payments required under this Section 5.04 (c) shall be defined as the “Additional Redeveloper Advances,” and, together with the Initial Redeveloper Advances and the Section 108 Redeveloper Advance, the “Redeveloper Advances”). The Redeveloper Advances, together with an additional amount equal to 20% of the amount to be repaid, shall be repaid by the Agencies to the Redeveloper only following a finding of a Basis for Termination (defined below) against the Agencies in accordance with Section 5.04 (f) hereunder.”

3. A new Section 5.04 (e) is added to read, as follows:

“Notwithstanding anything in the Agreement to the contrary, upon the execution of this Fifth Amendment, the Redeveloper shall pay the Agencies an amount of \$350,000.00, representing reasonable fees, costs and expenses incurred by the Agencies related to the Project since the final quarterly installment that was paid pursuant to Section 5.04(c) above. Said funds shall be applied by the Agencies in their reasonable discretion. All of the payments required under this Section 5.04(e) shall be included within the defined term “Redeveloper Advances” in the Agreement.

4. A new Section 5.04 (h) is added to read, as follows:

“In addition to the Redeveloper Advances, Redeveloper shall advance the sum of \$360,000.00 on or before July 25, 2014 to the Agencies, provided that the Agencies are not in

default of this Agreement (the “Section 108 Redeveloper Advance”), which sum shall be applied by the Agencies to repay to the County of Nassau a portion of the outstanding balance owing by the Agencies under the Section 108 Loans, and due on or before July 31, 2014. Any Section 108 Redeveloper Advance made prior to Closing on the Property shall be deemed credits against Redeveloper’s obligation to pay the Purchase Price. Immediately following the execution of this Fifth Amendment, the Parties shall prepare, execute and record any and all security instruments necessary to encumber the Property to secure the Section 108 Redeveloper Advance, and the Redeveloper Advances set forth in Section 5.04(e) hereunder.”


III. Ratification of the Agreement. In each instance in which a provision of this Fifth Amendment may contradict or be inconsistent with the provision or provisions of the Agreement, the provisions of this Fifth Amendment shall prevail and govern and the contradicted or inconsistent provisions of the Agreement shall be deemed amended accordingly. In each instance in which there is an ambiguity or uncertainty whether a provision of this Fifth Amendment may contradict or be inconsistent with a provision(s) of the Agreement, the Parties shall use best efforts and cooperate to reconcile and resolve the ambiguity in accordance with the intent of the Parties, and execute an amendment to the Agreement thereof if deemed necessary and appropriate by the Parties. The Agreement as so modified and all of the other terms and conditions of the Agreement are hereby ratified and confirmed. This Amendment may be executed in counterparts all of which, taken together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, each of the IDA and the CDA has caused this Fifth Amendment to be duly executed in its name and behalf of its Chairman, and the Redeveloper has caused this Fifth Amendment to be duly executed on or as of the date first above written.

ATTEST:

  
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GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY

By:   
Reginald A. Spinello, Chairman

ATTEST:

  
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GLEN COVE COMMUNITY DEVELOPMENT AGENCY

By:   
Reginald A. Spinello, Chairman


ATTEST:

  
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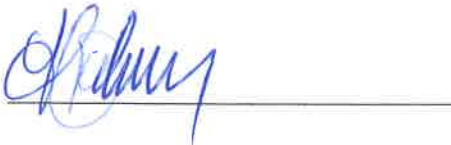
RXR GLEN ISLE PARTNERS LLC,

RXR GLEN ISLE HOLDINGS LLC, Manager

By: RXR FUND II GLEN ISLE INVESTOR LLC,  
Member

By:   
Frank Adipietro, Authorized Person

ATTEST:

  
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RXR GLEN ISLE MANAGER LLC, Manager

By:   
Frank Adipietro, Authorized Person

ATTEST:

  
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POSILICO MANAGEMENT AT GLEN ISLE LLC, Manager

By:   
Michael Posillico, Manager