

RESOLUTION

A regular meeting of County of Sullivan Industrial Development Agency ("Agency") was convened in public session at the Sullivan County Government Center, 100 North Street, Village of Monticello, Sullivan County, New York on September 13, 2011 at 10:00 a.m. local time.

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

	<u>PRESENT</u>	<u>ABSENT</u>
Elwin Wood	[√]	[]
Harold Gold	[√]	[]
Raymond Walter	[√]	[]
Edward T. Sykes	[√]	[]
Charles Barbuti, Jr.	[√]	[]
Harris Alport	[√]	[]
Suzanne Loughlin	[]	[√]
Cindy L. Garlinghouse	[√]	[]
Steve White	[√]	[]

The following persons were also present:

Allan C. Scott, Chief Executive Officer
Jennifer Brylinski, Agency Executive Director
Elizabeth A. Hunt, Agency Executive Assistant
Walter F. Garigliano, Agency General Counsel

The following resolution was duly offered by Steve White, and seconded by Harold Gold, to wit:

Resolution No. 22 - 11

RESOLUTION AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A COMMERCIAL CONSTRUCTION MORTGAGE IN AN AMOUNT NOT TO EXCEED ONE MILLION SIX HUNDRED THOUSAND AND 00/100 (\$1,600,000.00) DOLLARS AND RELATED DOCUMENTS IN FAVOR OF RIVERSIDE BANK RELATING TO THE HOLIDAY MOUNTAIN FUN PARK, INC. PROJECT

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York ("State"), as amended, and Chapter 560 of the Laws of 1970 of the State, as amended and codified as Section 960 of the General Municipal Law (collectively, the "Act"), the Agency was created with the authority and power to own, lease and sell property as authorized by the Act; and

WHEREAS, the Villa Roma Country Club, Inc. (“Villa Roma”) leased certain improved real property operated as the Holiday Mountain Ski Center (“Leased Premises”) from the Town of Thompson (“Town”) pursuant to a certain Lease Agreement, dated September 13, 2000 by and between the Villa Roma and the Town (“Town Lease”); and

WHEREAS, the Villa Roma assigned the Town Lease to Holiday Mountain Corp. (“HMC”) pursuant to an Assignment of Lease Agreement, dated September 28, 2000; and

WHEREAS, the HMC and Villa Roma presented an application (“Initial Application”) to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project consisting of (i) the acquisition, construction, rehabilitation and equipping of an existing ski center (“Ski Center”) and water park facility (intended to include both wet and dry park rides) (“Water Park”) situate on two (2) parcels of real estate consisting of approximately 144.56± acres in the aggregate located at 99 Holiday Mountain Road in the Town, County of Sullivan, State of New York and identified on the Town tax map as Section 32, Block 2, Lots 59 and 80.2 (“Land”) and related facilities an interest in which the Agency was to acquire; (ii) the acquisition and installation thereon and therein of certain furniture, fixtures, machinery, equipment and tools (“Initial Project Equipment”); (iii) the construction of improvements to the Ski Center, the Water Park, the Land and the Initial Project Equipment, collectively, the “Pre-2005 Facility” or “Initial Project”; and (iv) the sublease of the Facility from HMC to the Agency; and

WHEREAS, by resolution, dated December 12, 2000 the Agency authorized HMC and Villa Roma to act as its agent to acquire, construct, rehabilitate and equip the Pre-2005 Facility; directed that such documents, instruments, agreements and certificates necessary for the Agency to take a sub-leasehold interest in the Pre-2005 Facility be executed and delivered thereby providing the financial assistance requested by HMC and Villa Roma in its Initial Application to the Agency; and

WHEREAS, the Agency and the Company executed and delivered (i) that certain Bill of Sale to the Agency, dated as of February 1, 2001 by and among HMC, Villa Roma and the Agency; (ii) that certain Sublease to Agency, dated as of February 1, 2001 by and between HMC and the Agency; (iii) that certain Memorandum of Sublease to Agency, dated as of February 1, 2001 by and between HMC and the Agency (“2001 Sublease Agreement”); (iv) that certain Leaseback to Company, dated as of February 1, 2001 by and among HMC, Villa Roma and the Agency (“2001 Leaseback Agreement”); (v) that certain Memorandum of Leaseback to Company, dated as of February 1, 2001 by and among HMC, Villa Roma and the Agency; and (vi) that certain Payment in Lieu of Tax Agreement, dated as of February 1, 2001 by and among HMC, Villa Roma and the Agency (“2001 PILOT Agreement”) whereby the Agency took a sub-leasehold interest in the Land, the Initial Project Equipment and improvements consisting of the Pre-2005 Facility subject to the 2001 PILOT Agreement (collectively, (i) – (vi) are referred to as the “2001 Project Documents”); and

WHEREAS, the Agency, by resolution, dated September 10, 2002 authorized (i) an amendment, extension and termination of the 2001 Sublease Agreement and the 2001 Leaseback Agreement; (ii) the execution and delivery of that certain Lease to Agency, dated as of

September 12, 2002 by and between HMC and the Agency and that certain Leaseback to Agreement, dated as of September 12, 2002 by and between HMC and the Agency and any memorandums thereof; (iii) an amendment and restatement of those provisions relating to the Letter of Credit securing the payments in lieu of taxes to the taxing jurisdictions in the 2001 PILOT Agreement and an assignment of the 2001 PILOT Agreement, as amended from Villa Roma and HMC to HMC; and (iv) a mortgage tax abatement on a mortgage not to exceed One Million and 00/100 (\$1,000,000.00) Dollars to the First National Bank of Jeffersonville (“FNBJ”) relating to the Pre-2005 Facility (collectively, (i) – (iv) are referred to as the “2002 Project Documents”); and

WHEREAS, the Villa Roma exercised its option to purchase the Leased Premises from the Town in accordance with the Town Lease pursuant to a Deed, made September 9, 2002 and subsequently the Villa Roma sold the Holiday Mountain Ski Center to HMC pursuant to a Deed, made September 12, 2002; and

WHEREAS, the Agency executed and delivered (i) that certain Sublease to Agency Extension Agreement, dated as of March 31, 2002 by and among HMC, Villa Roma and the Agency extending the 2001 Sublease Agreement nunc pro tunc to September 12, 2002; (ii) that certain Leaseback to Company Extension Agreement, dated as of March 31, 2002 by and among HMC, Villa Roma and the Agency extending the 2001 Leaseback Agreement nunc pro tunc to September 12, 2002 by and among HMC, Villa Roma and the Agency; (iii) that certain Amended and Restated Agent Agreement, dated as of September 12, 2002 by and between the Agency and HMC; (iv) that certain Lease to Agency, dated as of September 12, 2002 by and between the Agency and HMC; (v) that certain Memorandum of Lease to Agency, dated as of September 12, 2002 by and between the Agency and HMC; (vi) that certain Leaseback to Company, dated as of September 12, 2002 by and between the Agency and HMC; (vii) that certain Memorandum of Leaseback to Company, dated as of September 12, 2002 by and between the Agency and HMC; (viii) that certain Amended and Restated PILOT Agreement, dated as of September 12, 2002 by and between the Agency and HMC; and (ix) a Mortgage and related financing documents, dated September 12, 2002 granting a security interest in the Pre-2005 Facility to secure a debt of HMC in the amount of One Million and 00/100 (\$1,000,000.00) Dollars to the FNBJ (“FNBJ Credit Facility”); and

WHEREAS, Holiday Mountain Fun Park, Inc. (successor by merger of HMC) (“Company”) notified the Agency that it wished to refinance the FNBJ Credit Facility with the Ellenville National Bank; and

WHEREAS, the Agency, by resolution, dated August 12, 2003 authorized the execution and delivery of any and all mortgages, assignments of leases and rents, security agreements, UCC-1 financing statements, mortgage tax affidavits and any and all other related financing documents necessary to facilitate a refinance by Ellenville National Bank of the FNBJ Credit Facility to secure a debt of the Company in an amount not to exceed Two Million Five Hundred Thousand (\$2,500,00.00) Dollars (“ENB Credit Facility”); and

WHEREAS, the Agency and the Company executed and delivered all of the foregoing documents necessary to facilitate the ENB Credit Facility; and

WHEREAS, the Agency, by resolution, dated March 11, 2003 authorized the execution and delivery of a Second Amended and Restated Payment in Lieu of Tax Agreement nunc pro tunc to February 25, 2003 to accommodate the Company's plan to certify as a Qualified Empire Zone Enterprise; and

WHEREAS, the Agency and Company executed and delivered that certain Amended and Restated Payment in Lieu of Tax Agreement, dated as of February 25, 2003 ("2003 PILOT Agreement" and together with the 2001 Project Documents and 2002 Project Documents, the "Project Documents"); and

WHEREAS, on or about April 2 and 3, 2005 a flood destroyed and/or severely damaged the Pre-2005 Facility ("2005 Flood"); and

WHEREAS, the Company made a claim against its property insurance for damage sustained at the Pre-2005 Facility as a result of the 2005 Flood and received a settlement check for the same ("Insurance Proceeds"); and

WHEREAS, the Insurance Proceeds were used to paydown the ENB Credit Facility (now known as Warwick Savings Bank); and

WHEREAS, the Company has presented an application ("Application") to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project consisting of (i) (a) the acquisition, construction, installation and equipping of a new ski chalet consisting of approximately 13,096± square feet and maintenance building consisting of approximately 6,000± square feet ("Ski Chalet"); (b) the reconstruction, rehabilitation, renovation, replacement, installation and equipping of all components of the Pre-2005 Facility as damaged and/or destroyed by the 2005 Flood, including, but not limited to the Water Park (both wet and dry components) and ski business; and (c) the acquisition, construction, installation and equipping of the Pre-2005 Facility as delayed by the 2005 Flood situate on the Land; (ii) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery, equipment and tools (together with the Initial Project Equipment, if any, the "Equipment"); (iii) the construction of improvements to the Pre-2005 Facility as damaged and/or destroyed by the 2005 Flood, the Land and the Equipment (collectively, the "Facility" or "Project"); and

WHEREAS, the Company borrowed One Million Six Hundred Thousand and 00/100 (\$1,600,000.00) Dollars from Riverside Bank ("Riverside") to finance the acquisition, construction, reconstruction, rehabilitation, renovation, replacement, installation and equipping of the Facility on the terms and conditions of that certain Commitment Letter, dated November 2, 2005 ("2005 Mortgage"); and

WHEREAS, on or about December 20, 2005, the Agency (i) designated the Company as its agent for the purpose of acquiring, constructing, reconstructing, rehabilitating, renovating, replacing, installing and equipping the Project; (ii) negotiated and entered into an Omnibus Amendment to Project Documents thereby amending the Project Documents to amend the

project description to include a description of the project as contemplated by the foregoing; (iii) provided financial assistance to the Company in the form of a sales tax exemption for purchases related to the acquisition, construction, reconstruction, rehabilitation, renovation, replacement, installation and equipping of the Project; and (iv) executed and delivered the 2005 Mortgage and related financing documents providing financial assistance to the Company in the form of a mortgage property tax abatement in an amount not to exceed Sixteen Thousand and 00/100 (\$16,000.00) Dollars; and

WHEREAS, by letter, dated August 11, 2011, the Company requested that the Agency join in execution of a Commercial Mortgage in favor of Riverside and any and all related documents, agreements, certificates and instruments in an amount not to exceed One Million Six Hundred Thousand and 00/100 (\$1,600,000.00) Dollars to modify the 2005 Mortgage or refinance the 2005 Mortgage; and

WHEREAS, it is contemplated that the Agency will join in a Commercial Mortgage and any and all related documents, agreements, certificates and instruments to modify the 2005 Mortgage or refinance the 2005 Mortgage.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE AGENCY AS FOLLOWS:

Section 1. The Chairman, Vice Chairman or Chief Executive Officer of the Agency, each acting individually, are each hereby authorized, on behalf of the Agency, to execute and deliver the Commercial Mortgage and any and all related documents, agreements, certificates and instruments in an amount not to exceed One Million Six Hundred Thousand and 00/100 (\$1,600,000.00) Dollars in the form approved by Counsel to the Agency and with such changes, variations, omissions and insertions as the Chairman, Vice Chairman or Chief Executive Officer of the Agency shall approve, the execution thereof by the Chairman, Vice Chairman or Chief Executive Officer of the Agency to constitute conclusive evidence of such approval.

Section 2. The officers, employees and agents of the Agency are hereby authorized and directed in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments, documents and 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 on behalf of the Agency, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 3. This resolution shall take effect immediately.

THE MEMBERS VOTED ON THE FOREGOING RESOLUTION AS FOLLOWS:

Elwin Wood	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Harold Gold	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Raymond Walter	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Edward T. Sykes	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Charles Barbuti, Jr.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Harris Alport	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Suzanne Loughlin	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Cindy L. Garlinghouse	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Steve White	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

and therefore, the resolution was declared duly adopted.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, (ii) pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections 103a and 104, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the 13th day of September, 2011.


Secretary