

## RESOLUTION

A recessed meeting of County of Sullivan Industrial Development Agency (“Agency”) was reconvened in public session at the Sullivan County Government Center, 100 North Street, Village of Monticello, Sullivan County, New York on November 28, 2016, at 11:00 a.m. local time.

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

	<u>PRESENT</u>	<u>ABSENT</u>
Ira Steingart	[ √ ]	[   ]
Suzanne Loughlin	[ √ ]	[   ]
Sean Rieber	[   ]	[ √ ]
Howard Siegel	[ √ ]	[   ]
Charles Barbuti, Jr.	[ √ ]	[   ]
Scott Smith	[ √ ]	[   ]
Paul Guenther	[ √ ]	[   ]
Joseph Perrello	[ √ ]	[   ]
Carol Roig	[ √ ]	[   ]

The following persons were also present:

Edward T. Sykes, Executive Director  
Steve White, Chief Executive Officer  
Jennifer M. Flad, Vice-President of Government Affairs and  
Business Development  
Julio Garaicoechea, Project Manager  
Walter F. Garigliano, General Counsel

The following resolution was duly offered by Charles Barbuti, Jr., and seconded by Joseph Perrello, to wit:

Resolution No. 39 - 16

***RESOLUTION OF THE AGENCY (I) CONSENTING TO THE ASSIGNMENT OF THE MG CATSKILL LLC (“MG”) PROJECT (AS HEREINAFTER DEFINED) AND ALL RIGHT, TITLE AND INTEREST IN AND TO THE AGENCY DOCUMENTS (AS HEREINAFTER DEFINED); (II) APPOINTING VETERAN NY EQUITY HOLDINGS LLC (“COMPANY”) AS AGENT OF THE AGENCY FOR THE PURPOSE OF ACQUIRING AND OPERATING THE PROJECT***

***WHEREAS***, the Agency was created by Chapter 560 of the Laws of 1970 of the State of New York, as amended, pursuant to Title I of Article 18-A of the General Municipal Law of the

State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York ("State"); and

**WHEREAS**, MG has presented an application to the Agency, a copy of which is on file at the office of the Agency, whereby the Agency undertook a project which consisted of the (i) construction, installation and equipping of an office building to consist of approximately 10,000 square feet ("Building") situate on one (1) parcel of real estate consisting of approximately 1.30± acres to be located along Sturgis Road in the Village, Town, County, State and identified on the Town tax map as Section 106, Block 1, Lot 3.1 ("Land") and related facilities; (ii) acquisition and installation thereon and therein certain furniture, fixtures, machinery, equipment and tools ("Equipment"); (iii) construction of improvements to the Building, the Land and the Equipment (collectively, the Building, the Land and the Equipment are referred to as the "Facility" or the "Project"); and (iv) lease of the Facility back from the Agency to the MG; and

**WHEREAS**, on or about September 1, 2009, MG and the Agency entered into an Agent Agreement pursuant to which the Agency appointed MG as its Agent to construct, install and equip a Building; and

**WHEREAS**, on or about September 1, 2009, MG and the Agency closed on a lease/leaseback transaction relating to the Project and in furtherance thereof entered into various agreements including but not limited to a Lease to Agency, Leaseback to Company and a Payment in Lieu of Tax Agreement ("Agency Documents"); and

**WHEREAS**, as contemplated by the Agent Agreement, the Building was constructed by MG at its sole cost and expense; and

**WHEREAS**, MG desires to transfer title in and to the Project and all of its rights under the Agency Documents to the Company and subject to the terms and conditions of the Agency Documents, the Company desires to accept and purchase all of MG's right, title and interest in and to the Project and all of its rights under the Agency Documents; and

**WHEREAS**, by letter dated October 27, 2016, MG has requested the Agency's consent to such transfer and assignment.

**WHEREAS**, the Agency determined that the adoption of this resolution is a Type II Action under SEQR and pursuant to the Agency's Resolution, dated September 14, 1998, no further action is required; and

**WHEREAS**, the Agency has given due consideration to the request for the Agency's consent to the transfer and assignment of the Project to the Company and to representations by the Company that the proposed financial assistance is an inducement to the Company to acquire the Project and undertake the Project; and

**WHEREAS**, the Agency has considered the following matters as more fully set forth in its Uniform Tax Exemption Policies:

- A. Permanent private sector job creation and retention;
- B. Estimated value of the tax exemption;
- C. Impact of Project on existing and proposed business or economic development projects;
- D. The amount of private sector investment generated or likely to be generated by the Project;
- E. Demonstrated public support for the Project;
- F. Likelihood of accomplishing the Project in a timely fashion;
- G. Extent to which the Project will require additional services including, but not limited to educational, police, transportation, EMS and fire;
- H. Extent to which the Project will provide additional revenues; and
- I. Extent to which 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;

and

**WHEREAS**, the Agency desires to encourage the Company to advance the job opportunities, health, general prosperity and economic welfare of the people of Sullivan County, New York by consenting to the transfer of the Project; and

**WHEREAS**, the Agency, MG and the Company have negotiated an Assignment, Assumption and Consent pursuant to which the Project will be bargained, sold and conveyed to the Company; and

**WHEREAS**, the Executive Director has negotiated a Lease to Agency, Leaseback to Company, a PILOT Agreement and related documents with the Company; and

**WHEREAS**, the Assignment, Assumption and Consent, the Lease to Agency, the Leaseback to Company, the PILOT Agreement and related documents have been prepared by Agency counsel; and

**WHEREAS**, it is contemplated that the Agency will (i) consent to the assignment of the Project and Agency Documents to the Company; (ii) designate the Company as its agent for the purpose of the Project; and (iii) continue the real property tax abatement on the increased value resulting from improvements previously constructed on the Land through the PILOT Agreement.

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

Section 1. The Company has presented to the Agency, among other things, a letter request in form acceptable to the Agency.

Section 2. Based upon (i) the representations made by the Company to the Agency, the Agency hereby determines that:

- (A) The Project consists of the transfer of fee title to an existing Project; and
- (B) The Facility is a Type II action under SEQR 6 NYCRR 617.5(c)(2) and accordingly, no further action is needed.

A copy of this resolution shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

Section 3. The Agency has determined that the proposed action does not involve financial assistance in excess of the financial assistance previously provided to MG, and therefore the proposed action is not subject to a public hearing.

Section 4. Based upon representations made by the Company to the Agency, the Agency hereby makes, finds and determines as follows:

- (A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act;
- (B) It is desirable and in the public interest for the Agency to (i) consent to the transfer of the Project to the Company; (ii) appoint the Company as its agent for purposes of operating the Project; and (iii) enter into the Assignment, Assumption and Consent, Lease Agreement to the Agency, Leaseback to Company and PILOT Agreement;
- (C) The Agency has the authority to take the actions contemplated therein under the Act;
- (D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in the County and otherwise furthering the purposes of the Agency as set forth in the Act.

Section 5. The Agency hereby consents to the assignment of the Project and all right, title and interest in and to the Agency Documents to the Company subject to:

- (A) Payment by MG to the Agency of a consent fee in the amount of Five Thousand and 00/100 (\$5,000.00) Dollars;
- (B) Payment to the Agency or its service providers of all costs associated with the contemplated transfer;
- (C) Execution by the Company and MG of the Assignment, Assumption and Consent;
- (D) Execution by the Company of documents necessary to memorialize the transfer, including but not limited to the Lease Agreement to the Agency, the Leaseback to Company and the PILOT Agreement

Section 6. The Assignment, Assumption and Consent, Lease Agreement to the Agency, Leaseback to Company, PILOT Agreement and related documents which were negotiated by the Executive Director, are hereby approved as to form and substance

on condition that: (i) MG pays to the Agency a consent fee in the amount of Five Thousand and 00/100 (\$5,000.00) Dollars; (ii) payment of all costs incurred by the Agency arising out of or related to the transfer of the Project; and (iii) indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to transfer of the Project to the Company.

Section 7. The Chairman, Executive Director or Chief Executive Officer of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Assignment, Assumption and Consent, the Lease Agreement to the Agency, Leaseback to Company, PILOT Agreement and related documents in the form presented at this meeting all with such changes, variations, omissions and insertions as the Chairman, Executive Director or Chief Executive Officer of the Agency shall approve, the execution thereof by the Chairman, Executive Director or Chief Executive Officer of the Agency to constitute conclusive evidence of such approval.

Section 8. The Chairman, Executive Director or Chief Executive Officer of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rent, security agreement, UCC-1 Financing Statements and all documents prepared on advice of counsel to the Agency ("Financing Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Financing Documents and to attest the same, provided that in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 9. 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 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, desirable and proper to effect the purposes of this resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 10. It is hereby found and determined that all formal actions of the Agency concerning and relating to the adoption of this resolution were adopted in an open meeting of the Agency; and that all deliberations of the Agency and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements.

Section 11. The Chairman, Executive Director, Chief Executive Officer or Counsel to the Agency is hereby authorized and directed (i) to distribute copies of this resolution to MG and the Company; and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 12. This resolution shall take effect immediately.

THE MEMBERS VOTED ON THE FOREGOING RESOLUTION AS FOLLOWS:

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

Ira Steingart	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Suzanne Loughlin	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Sean Rieber	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Howard Siegel	<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
Scott Smith	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Paul Guenther	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Joseph Perrello	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Carol Roig	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

The resolutions were thereupon duly adopted.

STATE OF NEW YORK :  
:ss.:  
COUNTY OF SULLIVAN :

I, the undersigned (Assistant) Secretary of the County of Sullivan Industrial Development Agency DO HEREBY CERTIFY THAT:

1. I have compared the foregoing copy of a resolution of the County of Sullivan Industrial Development Agency ("Agency") with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of such resolution and of the proceedings of the Agency in connection with such matter.
2. Such resolution was passed at a meeting of the Agency duly reconvened in public session on the 28<sup>th</sup> day of November, 2016 at 11:00 a.m. at the Sullivan County Government Center, 100 North Street, Village of Monticello, New York at which the following members were present:

	<u>PRESENT</u>	<u>ABSENT</u>
Ira Steingart	[ <input checked="" type="checkbox"/> ]	[       ]
Suzanne Loughlin	[ <input checked="" type="checkbox"/> ]	[       ]
Sean Rieber	[       ]	[ <input checked="" type="checkbox"/> ]
Howard Siegel	[ <input checked="" type="checkbox"/> ]	[       ]
Charles Barbuti, Jr.	[ <input checked="" type="checkbox"/> ]	[       ]
Scott Smith	[ <input checked="" type="checkbox"/> ]	[       ]
Paul Guenther	[ <input checked="" type="checkbox"/> ]	[       ]
Joseph Perrello	[ <input checked="" type="checkbox"/> ]	[       ]
Carol Roig	[ <input checked="" type="checkbox"/> ]	[       ]


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

Ira Steingart	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Suzanne Loughlin	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Sean Rieber	[   ] Yes	[   ] No	[ <input checked="" type="checkbox"/> ] Absent	[   ] Abstain
Howard Siegel	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Charles Barbuti, Jr.	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Scott Smith	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Paul Guenther	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Joseph Perrello	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Carol Roig	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] 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 28<sup>th</sup> day of November, 2016.



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Howard Siegel, Assistant Secretary