

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 November 19, 2018, at 11:00 a.m. local time.

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

	<u>PRESENT</u>	<u>ABSENT</u>
Ira Steingart	[]	[]
Suzanne Loughlin	[]	[]
Sean Rieber	[]	[]
Edward T. Sykes	[]	[]
Howard Siegel	[]	[]
Scott Smith	[]	[]
Paul Guenther	[]	[]
Joseph Perrello	[]	[]
Carol Roig	[]	[]

The following persons were also present:

Jennifer M. Flad, Executive Director
Julio Garaicoechea, Project Manager
Cassandra Eagan, Administrative Assistant
Walter F. Garigliano, Agency General Counsel

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

Resolution No. 39 - 18

RESOLUTION OF THE AGENCY APPOINTING CHAPIN HOSPITALITY GROUP, LLC (“COMPANY”) AS AGENT OF THE AGENCY FOR THE PURPOSE OF CONSTRUCTING AND FURNISHING THE FACILITY (HEREINAFTER DEFINED); MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE FACILITY; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGENT AND PROJECT AGREEMENT BETWEEN THE AGENCY AND THE COMPANY AND RELATED DOCUMENTS

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 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 the: (i) construction and furnishing of an approximately 1,100± square foot building intended to be used as a model (“Building”) situate on a parcel of real estate consisting of approximately 15.56 acres located at 338 Chapin Trail, White Lake in the Town of Bethel, County of Sullivan (“County”), State of New York and identified on the Town tax map as Section 55.E, Block 2, Lot 16 (“Land”) and related facilities; (ii) the acquisition and installation thereon and therein of certain furniture, fixtures and equipment (“FF&E”) (collectively, the Building, the Land and the FF&E are referred to as the “Facility” or the “Project”); and

WHEREAS, it is contemplated that the Agency will (i) designate the Company as its agent for the purpose of constructing and furnishing the Project; (ii) negotiate and enter into an Agent and Project Agreement and related documents (“Agent Appointment Documents”); and (iii) provide financial assistance to the Company in the form of a sales tax exemption for purchases related to the construction and furnishing of the Project; and

WHEREAS, the total financial assistance being contemplated by the Agency is less than \$100,000; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (“SEQR”), the Agency constitutes a “State Agency”; and

WHEREAS, the Agency has determined that the Project is a Type II action under SEQR. Accordingly, no further action under SEQR is required; and

WHEREAS, the Agency has given due consideration to the Application of the Company and to representations by the Company that the proposed financial assistance is an inducement to the Company to 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. Whether the affected taxing jurisdictions shall be reimbursed by the Company if the Facility does not fulfill the purposes for which the exemption was granted;
- D. Impact of Project on existing and proposed business or economic development projects;
- E. The amount of private sector investment generated or likely to be generated by the Project;
- F. Demonstrated public support for the Project;

- G. Likelihood of accomplishing the Project in a timely fashion;
- H. Environmental impact;
- I. Extent to which the Project will require additional services including, but not limited to educational, police, transportation, EMS and fire;
- J. Extent to which the Project will provide additional revenues; and
- K. Extent to which the Project will serve the public purposes of the Act by preserving permanent, private sector jobs or 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 providing the contemplated financial assistance and undertaking the Project; and

WHEREAS, the Chief Executive Officer has negotiated the Agent Appointment Documents with the Company; and

WHEREAS, the Agent Appointment Documents have been prepared by Agency counsel.

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, an Application in form acceptable to the Agency.

Section 2. Based upon the representations made by the Company to the Agency, and (ii) a review of the related documents, the Agency hereby determines that:

- (A) The Project consists of the construction and furnishing of the Facility; and
- (B) The Project is a Type II action under SEQR 6 NYCCR 617.5 (c)(1) so no further action is needed.

A copy of this resolution shall together with the attachments thereto 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 financial assistance does not exceed the sum of \$100,000 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 appoint the Company as its agent for purposes of constructing and furnishing the Facility;
- (C) The Agency has the authority to take the actions contemplated therein under the Act; and
- (D) The action to be taken by the Agency will induce the Company to develop the Facility, thereby increasing employment opportunities in Sullivan County and otherwise furthering the purposes of the Agency as set forth in the Act.

Section 5. Subject to the Company executing the Agency Appointment Documents in form and substance approved by the Chief Executive Officer and Agency General Counsel, the Agency hereby authorizes the Company to proceed with the construction and furnishing of the Facility and hereby appoints the Company as the true and lawful agent of the Agency to construct and furnish the Facility on behalf of the Agency; with the authority to delegate its status as agent of the Agency to the Company's agents, subagents, contractors, subcontractors, suppliers, vendors and other such parties as the Company may choose. The appointment described above includes the following activities as they relate to the construction and furnishing of the Facility, whether or not the materials, services or supplies described below are incorporated into or become an integral part of the Facility; (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with the construction and furnishing of the Facility; (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description in connection with the construction and furnishing of the Facility; and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs with respect thereto), installed or placed in, upon or under the Facility, including all repairs and replacements of such property. This agency appointment includes the power to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agents for the Agency, and in general to do all things which may be requisite or proper for completing the Facility, all with the same powers and with the same validity as the Agency could do if acting on its own behalf.

Section 6. Based upon the representation and warranties made by the Company in its application for financial assistance, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Facility and that would otherwise be subject to New York State and local sales and use tax in an amount up to \$1,000,000, which result in New York State and local sales and use tax exemption benefits ("Sales and Use Tax Exemption Benefits") not to exceed \$80,000. The Agency agrees to consider any requests by the Company for increase to the amount of Sales and Use Tax Exemption Benefits authorized by

the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services.

Section 7. Pursuant to Section 875(3) of the New York General Municipal Law, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Facility, any Sales and Use Tax Exemption Benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Facility, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Facility, is not entitled to the Sales and Use Tax Exemption Benefits; (ii) the Sales and Use Tax Exemption Benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Facility; (iii) the Sales and Use Tax Exemption Benefits are for property or services not authorized by the Agency as part of the Facility; or (iv) the Sales and Use Tax Exemption Benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Facility, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Facility. As a condition precedent of receiving Sales and Use Tax Exemption Benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Facility, must (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 8. The Agent Appointment Documents which were negotiated by the Chief Executive Officer, are hereby approved as to form and substance on condition that the Company pay all costs incurred by the Agency arising out of or related to the Facility and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Facility.

Section 9. The Chairman, Executive Director or Chief Executive Officer of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agent Appointment 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 10. 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 11. 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 12. The Executive Director, Chief Executive Officer or Counsel to the Agency is hereby authorized and directed (i) to distribute copies of this resolution to 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 13. This resolution shall take effect immediately.

THE MEMBERS VOTED ON THE FOREGOING RESOLUTION AS FOLLOWS:

Ira Steingart	<input 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 type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Sean Rieber	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Edward T. Sykes	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Howard Siegel	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Scott Smith	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Paul Guenther	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Joseph Perrello	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Carol Roig	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

and therefore, the resolution was declared duly adopted.

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

I, the undersigned Secretary (or Assistant) of the Agency DO HEREBY CERTIFY THAT:

1. I have compared the foregoing copy of a resolution of the 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 convened in public session on the 19th day of November, 2018 at 11:00 a.m. at the Sullivan County Government Center, 100 North Street, Monticello, New York, at which the following members were present:

	<u>PRESENT</u>	<u>ABSENT</u>
Ira Steingart	[]	[]
Suzanne Loughlin	[]	[]
Sean Rieber	[]	[]
Edward T. Sykes	[]	[]
Howard Siegel	[]	[]
Scott Smith	[]	[]
Paul Guenther	[]	[]
Joseph Perrello	[]	[]
Carol Roig	[]	[]

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

Ira Steingart	[] Yes	[] No	[] Absent	[] Abstain
Suzanne Loughlin	[] Yes	[] No	[] Absent	[] Abstain
Sean Rieber	[] Yes	[] No	[] Absent	[] Abstain
Edward T. Sykes	[] Yes	[] No	[] Absent	[] Abstain
Howard Siegel	[] Yes	[] No	[] Absent	[] Abstain
Scott Smith	[] Yes	[] No	[] Absent	[] Abstain
Paul Guenther	[] Yes	[] No	[] Absent	[] Abstain
Joseph Perrello	[] Yes	[] No	[] Absent	[] Abstain
Carol Roig	[] 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 19th day of November, 2018.

Secretary