

RESOLUTION

A regular meeting of the County of Sullivan Industrial Development Agency ("Agency") was convened in public session on June 10, 2019, at 11:00 a.m., local time, at the Sullivan County Government Center, 100 North Street, Monticello, New York 12701.

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	[]	[√]
Edward T. Sykes	[√]	[]
Howard Siegel	[√]	[]
Scott Smith	[]	[√]
Paul Guenther	[]	[√]
Joseph Perrello	[√]	[]
Carol Roig	[√]	[]

The following persons were also present:

Jennifer M. Flad, Executive Director
Edward T. Sykes, Chief Executive Officer
Julio Garaicoechea, Project Manager
Walter F. Garigliano, Agency General Counsel

The following resolution was duly offered by Joseph Perrello, and seconded by Carol Roig, to wit:

Resolution No. 34 - 19

RESOLUTION AUTHORIZING (I) AN OMNIBUS AMENDMENT TO PROJECT DOCUMENTS (AS HEREIN DEFINED) RELATING TO THE SULLIVAN RESORTS, LLC PROJECT; (II) AN INCREASE IN BENEFITS; AND (III) THE CHAIRMAN AND/OR CHIEF EXECUTIVE OFFICER, EITHER ACTING INDIVIDUALLY, TO EXECUTE AND DELIVER THE OMNIBUS AMENDMENT TO PROJECT DOCUMENTS AND ANY AND ALL DOCUMENTS TO EFFECTUATE THE FOREGOING

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; and

WHEREAS, on or about June 13, 2018, Sullivan Resorts, LLC for itself or on behalf of one or more entities now existing or to be formed by it or on its behalf (collectively, the "Company") submitted an application (the "Application"), requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the demolition of unsafe structures and environmental remediation, located on approximately six (6) parcels of land containing in the aggregate approximately 582.61 acres located along New York State Routes 17 and 52 and Clements Road within the Town or Village of Liberty, Sullivan County, New York and being comprised of all or a portion of the commonly known Grossinger's Resort Hotel, all as more particularly identified as all or a portion of tax map numbers 23.-1-87, 23.-1-112.3, 29.-2-3, 29.-2-7, 30.-1-1.1, and 125.-1-1.2 (collectively, the "Land") and the existing building or structures located thereon (collectively, the "Existing Improvements"), (ii) the demolition of certain of the Existing Improvements (the "Building Demolition"), (iii) the construction, reconstruction, renovation and/or repair of water and sewer infrastructure located on the Land (the "Infrastructure Improvements"), and the construction, reconstruction, renovation and/or repair of roadway and drainage infrastructure located on the Land; (iv) the construction, reconstruction, renovation and/or repair of lighting, electricity and connectivity infrastructures on the Land and the development of infrastructure; and (v) the acquisition and installation by the Company in and around the Existing Improvements, the Building Demolition and the Infrastructure Improvements of certain items of equipment and other tangible personal property (the "Equipment" and, collectively with the Land, the Existing Improvements, and the Infrastructure Improvements, the "Project" or "Facility"); and

WHEREAS, according to the Application, approximately 19 acres of the approximately 583 acre site have been admitted into the New York State Department of Environmental Conservation's ("NYSDEC") Brownfield Clean-up Program, and the Company and NYSDEC have entered into a Brownfield Clean-up Agreement ("BCA") requiring remediation of this 19 acre area, which includes the majority of the former hotel building complex; and

WHEREAS, on or about July 2, 2018, the Agency received a cost-benefit analysis related to the Project; and

WHEREAS, based on the cost-benefit analysis, it was the Agency's understanding that the work undertaken in accordance with the BCA constitutes a capital improvement and is therefore exempt from sales and use tax under New York State law; and

WHEREAS, based on the results of the cost-benefit analysis, it was the Agency's further understanding that the work undertaken outside the scope of the BCA results in an incidental or insignificant sales and use tax exemption from the Agency; and

WHEREAS, in reliance on the cost-benefit analysis, the Agency and the Company understood the sales and use tax exemption provided by the Agency would not exceed \$100,000; and

WHEREAS, by resolution, dated July 9, 2018 the Agency authorized the execution of a Master Development and Agent Agreement ("MDAA") and Sales Tax Exemption Letter, provided that the financial assistance shall not exceed \$100,000 in the aggregate; and

WHEREAS, the Agency and the Company entered into a MDAA and the Agency issued a Sales Tax Exemption Letter, both effective August 1, 2018; and

WHEREAS, by resolution, dated February 11, 2019, the Agency authorized its Chairman and/or Chief Executive Officer to execute and deliver the Lease to Agency, Leaseback to Company, Payment in Lieu of Tax (PILOT) Agreement with the Company (collectively, the "Transaction Documents" together with the MDAA, the "Project Documents"); and

WHEREAS, the Agency and the Company executed the Lease to Agency, Leaseback to Company, and PILOT Agreement effective February 1, 2019; and

WHEREAS, the Company reports the Project is now substantially complete, and the total value of taxable purchases is approximately \$3,750,000, resulting in an estimated sales and use tax exemption of approximately \$300,000; and

WHEREAS, the Company undertook the Project with the understanding that all work would be exempt from payment of New York State and local sales and use tax, either under State law or the Agency's exemption; and

WHEREAS, since February 2019, the Agency has become aware that the work undertaken in accordance with the BCA does not constitute a capital improvement because it is not directly related to a new development project, and therefore this work is not exempt from sales and use tax under New York State law; and

WHEREAS, it is and has been the intent of the Agency to abate all applicable sales and use tax associated with the Project, consistent with the Agency's Uniform Tax Exempt Policy; and

WHEREAS, the Agency wishes to correct its earlier misunderstanding and document the scope of the Agency's financial assistance, to ensure the Company receives the full benefit of sales and use tax exemptions intended and agreed upon since the time of the Application;; and

WHEREAS, by letter dated May 24, 2019 the Company requested an amendment to the Project Documents reflecting a total Agency sales and use tax abatement of \$300,000; and

WHEREAS, the Agency has received a revised cost-benefit analysis reflecting an Agency sales and use tax abatement of \$300,000; and

WHEREAS, because the proposed financial assistance exceeds the sum of \$100,000, a public hearing on due notice was held on June 4, 2019 at 9:00 a.m., local time, at the Town of Liberty Town Hall, 120 North Main Street, Liberty, County of Sullivan, State of New York at which hearing comments relating to the proposed financial assistance were solicited; and

WHEREAS, the Agency contemplates that it will (i) enter into an Omnibus Amendment to Project Documents; (ii) increase the financial assistance to the Company in the form of sales and use tax exemption ("Financial Assistance"); and (iii) authorize its Chairman and/or Chief Executive Officer to execute and deliver the Omnibus Amendment to Project Documents and any and all documents necessary to effectuate the foregoing.

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

Section 1. The Agency hereby approves the Company's request to increase the financial assistance and amend the Project Documents.

Section 2. The public hearing held by the Agency on Tuesday, June 4, 2019, at 9:00 a.m., concerning the increased financial assistance was duly held in accordance with the Act, including but not limited to the giving of at least ten (10) days published notice of the Public Hearing (such notice also provided to the Chief Executive Officer of each affected tax jurisdiction), affording interested parties a reasonable opportunity, both orally and in writing, to present their views with respect to the increased financial assistance.

Section 3. The MDAA shall be amended or restated, as required by the Agency, to reflect the Agency's authorization and approval of the Company, as its agent, to make purchases of goods and services relating to the increased financial assistance and that would otherwise be subject to New York State and local sales and use tax in an amount up to \$3,750,000, which result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed \$300,000. 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 4. The Chairman and/or Chief Executive Officer of the Agency, each acting individually are hereby authorized, on behalf of the Agency, to execute and deliver the Omnibus Amendment to Project Documents together with any other documents necessary to effectuate the foregoing.

Section 5. The officers, employees and agents of the Agency are hereby authorized and directed for and 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 the foregoing resolutions 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 6. These Resolutions shall take effect immediately

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	<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
Edward T. Sykes	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input 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
Scott Smith	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Paul Guenther	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" 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

and therefore, the resolution was declared duly adopted.

STATE OF NEW YORK :
:SS
COUNTY OF SULLIVAN :

I, the undersigned (Assistant) Secretary 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 June 10, 2019 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	[<input checked="" type="checkbox"/>]	[]
Suzanne Loughlin	[<input checked="" type="checkbox"/>]	[]
Sean Rieber	[]	[<input checked="" type="checkbox"/>]
Edward T. Sykes	[<input checked="" type="checkbox"/>]	[]
Howard Siegel	[<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
Edward T. Sykes	[<input checked="" type="checkbox"/>] Yes	[] No	[] Absent	[] Abstain
Howard Siegel	[<input checked="" type="checkbox"/>] Yes	[] No	[] Absent	[] Abstain
Scott Smith	[] Yes	[] No	[<input checked="" type="checkbox"/>] Absent	[] Abstain
Paul Guenther	[] Yes	[] No	[<input checked="" type="checkbox"/>] 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 10th day of June, 2019.


Assistant Secretary