

RESOLUTION

A regular meeting of the County of Sullivan Industrial Development Agency (“Agency”) was convened on February 14, 2022 at 11:00 a.m. local time via videoconference as authorized by Chapter 417 of the Laws of 2021, which took effect on September 2, 2021 and was amended effective January 14, 2022.

The meeting was called to order by Chairperson Suzanne Loughlin, and, upon roll being called, the following members of the Agency were:

| | <u>PRESENT</u> | <u>ABSENT</u> |
|------------------|----------------|---------------|
| Suzanne Loughlin | [√] | [] |
| Edward T. Sykes | [√] | [] |
| Carol Roig | [√] | [] |
| Howard Siegel | [√] | [] |
| Scott Smith | [√] | [] |
| Paul Guenther | [√] | [] |
| Sean Brooks | [√] | [] |

The following persons were also present:

Jennifer M. Flad, Executive Director
John W. Kiefer, Chief Executive Officer
Julio Garaicoechea, Project Manager
Walter F. Garigliano, Agency General Counsel

The following resolution was duly offered by Edward T. Sykes, and seconded by Paul Guenther, to wit:

Resolution No. 04 - 22

RESOLUTION OF THE AGENCY AUTHORIZING A STRAIGHT LEASE TRANSACTION BETWEEN THE AGENCY AND THE SUNSET LAKE LOCAL DEVELOPMENT CORPORATION AND EXECUTION OF A PAYMENT IN LIEU OF TAX AGREEMENT (“PILOT AGREEMENT”) AND RELATED DOCUMENTS WITH RESPECT TO THE COUNTY OF SULLIVAN ADULT CARE CENTER

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, on January 24, 2022, Sunset Lake Local Development Corporation, a New York Not-for-Profit Corporation (the “Company”), submitted an application to the Agency (the “Application”), a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) the acquisition of an interest in a fifty (50.00) acre parcel of land depicted on the Town of Liberty Tax Map as Section 23, Block 1, Lot 126.6 (“Land”) improved by the County of Sullivan Adult Care Center; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to making provision for a fixed amount payment in lieu of real property taxes; and (C) the lease of the Agency’s interest in the Project back to the Company or such other entity as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the Application would require the Agency to deviate from its Uniform Tax Exemption Policy (“UTEP”) since the UTEP has no provision for a fixed amount payment in lieu of real property taxes and the overall term of the proposed PILOT would exceed twenty (20) years; and

WHEREAS, on January 24, 2022 by resolution #03-22 the Agency authorized and directed the Executive Director of the Agency to send a letter to the Affected Taxing Jurisdictions informing them of the proposed deviation from the Agency’s UTEP; and

WHEREAS, by letter dated January 25, 2022 (the “UTEP Deviation Notice”), Jennifer Flad, the Agency’s Executive Director, notified the Affected Taxing Jurisdictions of the proposed deviation from the Agency’s UTEP by hand delivering the UTEP Deviation Notice to:

Joshua Potosek, County Manager
County of Sullivan (“County”)

Robert A. Doherty, Chairman
Sullivan County Legislature

and by mailing the UTEP Deviation Notice to:

Frank DeMayo, Supervisor
Town of Liberty (“Town”)

Dr. Patrick Sullivan, Superintendent
Liberty Central School District
 (“School District”)

John L. Nichols, President
Board of Education

; and

WHEREAS, it is contemplated that the Agency will (i) enter into a straight lease transaction with the Company; (ii) negotiate and enter into a PILOT Agreement with the Company pursuant to which the Company shall make a fixed amount payment in lieu of real property taxes; (iii) hold a leasehold interest in the Land and the improvements thereon which constitute the Project; and (iv) sublease the Agency’s leasehold interest back to the Company; and

WHEREAS, the total financial assistance being contemplated by the Agency is less than ONE HUNDRED THOUSAND and 00/100 (\$100,000.00) Dollars and therefore the proposed action was not subject to a public hearing; 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 action involves no construction activity or physical changes to the Land and the Agency has determined that the Project is a Type II Action under SEQR; and

WHEREAS, the Agency has considered the following matters in considering the Project:

- A. Permanent private sector job retention;
- B. Estimated value of the future PILOT payments compared to future real estate taxes;
- C. The benefit to the Company and taxing jurisdictions of resolving the dispute over the Project’s entitlement to an exemption;
- D. The amount of private sector investment generated or likely to be generated by the Project if and when transferred by the Company to a private operator;
- F. Support of the Application by the County and Town;
- G. Extent to which the Project will serve the public purposes of the Act by preserving permanent jobs in the State;

; and

WHEREAS, the Agency has obtained an independent analysis of the benefits and costs associated with the arrangement contemplated by the Application; and

WHEREAS, by letter dated January 27, 2022, Shepstone Management Company, Inc. has issued its opinion and concluded that benefits of approving the Application are greater than the cost associated therewith; and

WHEREAS, the County and Town have each supported the proposed deviation; and

WHEREAS, by letter dated February 10, 2022, the School District objected to the proposed deviation; and

WHEREAS, the Executive Director has negotiated the PILOT Agreement with the Company; and

WHEREAS, the Lease to Agency, Leaseback to Company and PILOT Agreement (“Transaction Documents”) have been drafted 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, the Agency hereby determines that the Project is a Type II under the SEQR.

Section 3. The Agency has determined that the proposed financial assistance is less than ONE HUNDRED THOUSAND and 00/100 (\$100,000.00) Dollars and therefore was 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) acquire a leasehold interest in the Land and improvements constituting the Project; (ii) lease the Land and improvements constituting the Project back to the Company pursuant to the Lease and subject to the Leaseback; and (iii) enter into a PILOT Agreement with a fixed amount payment in lieu of real estate taxes of THREE HUNDRED FIFTY THOUSAND and 00/100 (\$350,000.00) Dollars due January 1, 2023, with the amount of the PILOT payment increasing two (2%) percent annually;
- (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 assist with resolution of a dispute as to the taxable status of the Project.

Section 5. The Agency has considered the School District's objection and in connection therewith finds:

- (A) The UTEP Deviation Notice fulfills the requirements of the Act. The avoidance of cost and uncertainty of litigation is a benefit to both the community and the School District;
- (B) One possible outcome of a 2022 exemption application by the Company is that the Assessor will grant the exemption, in which event the School District will receive no tax revenue from the Project;
- (C) One possible outcome of a 2022 exemption application is the denial of an exemption by the Assessor but a court decision that the Project is entitled to an exemption, in which event the School District will receive no tax revenue from the Project;
- (D) One possible outcome of a 2022 exemption application is that the exemption will be denied by the Assessor and the Assessor's denial upheld by the courts but that the assessed value will be reduced, in which event the tax

revenue to be received by the School District from the Project is uncertain;
and

- (E) By approving the Application, the PILOT payment to be made to the Affected Taxing Jurisdictions will be known and budgets can be prepared based on a predictable revenue from the Project.

Section 6. The Transaction Documents which were negotiated by the Executive Director, are hereby approved as to form and substance on condition that: (i) the payments under the Leaseback include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project; and (ii) while the terms of the PILOT Agreements are not consistent with the Agency's Uniform Tax Exemption Policy a deviation therefrom has been approved by the Agency.

Section 7. The Chairperson, Executive Director or Chief Executive Officer of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Transaction Documents in the form presented at this meeting all with such changes, variations, omissions and insertions as the Chairperson, Executive Director or Chief Executive Officer of the Agency shall approve, the execution thereof by the Chairperson, Executive Director or Chief Executive Officer of the Agency to constitute conclusive evidence of such approval.

Section 8. 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 9. 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 10. 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 11. This resolution 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:

| | | | | |
|------------------|---|-----------------------------|---------------------------------|----------------------------------|
| Suzanne Loughlin | <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 |
| Carol Roig | <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 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 |
| Sean Brooks | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Absent | <input type="checkbox"/> Abstain |

The resolution was thereupon duly adopted.

STATE OF NEW YORK :
:SS
COUNTY OF SULLIVAN :

I, the undersigned 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 via videoconference on February 14, 2022 at 11:00 a.m. at which the following members were present:

| | <u>PRESENT</u> | <u>ABSENT</u> |
|------------------|---|---------------|
| Suzanne Loughlin | [<input checked="" type="checkbox"/>] | [] |
| Edward T. Sykes | [<input checked="" type="checkbox"/>] | [] |
| Carol Roig | [<input checked="" type="checkbox"/>] | [] |
| Howard Siegel | [<input checked="" type="checkbox"/>] | [] |
| Scott Smith | [<input checked="" type="checkbox"/>] | [] |
| Paul Guenther | [<input checked="" type="checkbox"/>] | [] |
| Sean Brooks | [<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:

| | | | | |
|------------------|---|----------|--------------|---------------|
| Suzanne Loughlin | [<input checked="" type="checkbox"/>] Yes | [] No | [] Absent | [] Abstain |
| Edward T. Sykes | [<input checked="" type="checkbox"/>] Yes | [] No | [] Absent | [] Abstain |
| Carol Roig | [<input checked="" type="checkbox"/>] Yes | [] No | [] Absent | [] Abstain |
| Howard Siegel | [<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 |
| Sean Brooks | [<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 103(a) and (c) and 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public via videoconference and public notice of the time and place of said meeting was duly given in accordance with such Sections 103(a) and (c) and 104, (iii) the meeting in all respects was duly held via videoconference as authorized by Chapter 417 of the Laws of 2021, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the 14th day of February, 2022.



Carol Roig, Secretary