

RESOLUTION

A regular meeting of the County of Sullivan Industrial Development Agency (“Agency”) was convened on February 13, 2023 at 11:00 a.m. local time at 548 Broadway, Monticello, New York 12701.

The meeting was called to order by Vice Chairman Edward T. Sykes, and, upon the 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	[]	[]
Philip Vallone	[]	[]

The following persons were also present:

Jennifer M. Flad, Executive Director

John W. Kiefer, Chief Executive Officer

Julio Garaicoechea, Project Manager

Bethanii Padu, Economic Development Coordinator

Walter F. Garigliano, General Counsel

William A. Frank, Special Transaction Counsel (Via Video Conference)

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

Resolution No. __ - 23

RESOLUTION OF THE AGENCY: I) AUTHORIZING THE AMENDMENT OF THE PILOT AGREEMENT DATED AUGUST 1, 2022 BETWEEN THE AGENCY, FSH LODGE AT NEVERSINK, LLC AND 7491 STATE ROUTE 55 PROPERTY CO., LLC (COLLECTIVELY, THE “COMPANY”); AND (II) AUTHORIZING THE CHAIRMAN, CHIEF EXECUTIVE OFFICER OR EXECUTIVE DIRECTOR OF THE AGENCY TO EXECUTE AND DELIVER ANY AND ALL DOCUMENTS NECESSARY TO EFFECTUATE THE FOREGOING

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 or about April 11, 2022, by duly adopted Resolution No. 15-22, the Agency approved the application of the Company whereby the Agency agreed to undertake a project consisting of the: (i) acquisition, construction, reconstruction, renovation, rehabilitation, installation and equipping of nine (9) existing buildings aggregating approximately 30,000 +/- square feet, intended to be used as a wellness retreat including thirty-four (34) guest rooms, spa, restaurant and related amenities (“Buildings”) situate on two (2) parcels of real estate consisting of approximately 229.5+/- acres located at 7491 State Route 55 and Seeman Road, Town of Neversink (“Town”), County of Sullivan (“County”), State of New York and identified on the Town tax map as Section 30, Block 1, Lots 39.1 and 39.3 (“Land”); (ii) acquisition, construction and installation thereon and therein of certain furniture, fixtures, machinery, equipment and tools (“Equipment”); (iii) construction of improvements to the Buildings, the Land and the Equipment (collectively, the Buildings, the Land and the Equipment are referred to as the “Project”); and (iv) lease of the Project from the Agency to the Company; and

WHEREAS, pursuant to Resolution No. 15-22, the Agency (i) designated the Company as its agent for the purpose of reconstructing, renovating, rehabilitating, installing and equipping the Project; (ii) negotiated and entered into an Agent and Project Agreement dated as of August 1, 2022; (iii) authorized the negotiation and entry into the Lease, the Leaseback and the PILOT Agreement with the Company (collectively with the Agent and Project Agreement, the “Transaction Documents”); (iv) agreed to hold a leasehold interest in the Land, the improvements and personal property thereon which constitute the Project; and (v) agreed to provide financial assistance to the Company in the form of (a) sales tax exemption for purchases related to the reconstruction, renovation, rehabilitation, installation and equipping of the Project; (b) a real property tax abatement on increased value resulting from improvements to the Land through the PILOT Agreement, which Agreement shall include language permitting the Company to seek enhanced benefits, in accordance with the Agency’s recently amended Tourism Industry Program in the event that the Company or any entity acting on the Company’s behalf, applies to the appropriate governmental authorities and receives all necessary approvals to construct market rate workforce housing at a location at or within twenty-five (25) miles of the Project site, with said location to be determined at a future date, and such market rate workforce housing is actually constructed; and (c) a mortgage tax exemption for financing related to the Project; and

WHEREAS, subsequent to the adoption of Agency Resolution No. 15-22, it was determined that certain language securing the Company’s obligation to make annual payments pursuant to the PILOT Agreement was inadvertently omitted from said Agreement; and

WHEREAS, the Company has acknowledged the need to post security for its payment obligations under the PILOT Agreement and is willing to enter into an amendment to said Agreement; and

WHEREAS, given the overall benefits of the Project as set forth in the findings section of Resolution No. 15-22, the Agency has determined that it is in the public interest to authorize the

amendment of the PILOT Agreement to include appropriate language securing the Company's annual payment obligations,

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

Section 1. Agency Resolution No. 15-22, which was duly adopted on April 11, 2022 shall be deemed to be amended to approve the application for Agency benefits with the PILOT Agreement being amended as set forth herein, and the remainder of said Resolution shall remain as originally adopted and amended by Agency Resolution No. 30-22 related to Project financing.

Section 2. The PILOT Agreement dated as of August 1, 2022 shall be amended by adding a new Paragraph 20 stating as follows:

“20. Security for Company's Obligation. The Company shall procure, for the benefit of the Agency, an irrevocable, unconditional letter of credit in form and substance acceptable to the Agency and its counsel to secure the performance by the Company of its financial obligations under this PILOT Agreement for all PILOT Payment dates from Year 1 (as provided in ¶ 3) through Year 15. On or before February 1, 2024 and on each February 1 thereafter that this PILOT Agreement is in effect, the Company shall deliver to the Agency a letter of credit in an amount of not less than 110% of the PILOT Payment which is due as of such date. The letter of credit shall not expire prior to February 28 of the following year and shall provide for automatic renewal unless the Agency is notified that said letter of credit is not being renewed at least sixty (60) days in advance of the expiration date in effect.”

Section 3. The Chairperson, Chief Executive Officer or Executive Director of the Agency, each acting individually, are hereby authorized, on behalf of the Agency, to execute and deliver an amendment to the PILOT Agreement reflecting the additional language set forth in Section 2 of this Resolution, subject to review of the form and content of said documents by Special Transaction Counsel.

Section 4. 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 documents and 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 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 5. 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 6. 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 7. A copy of this resolution, together with the attachments thereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

Section 9. 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 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
Carol Roig	<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
Sean Brooks	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Philip Vallone	<input 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 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 convened in public session on February 13, 2023 at 11:00 a.m. at 548 Broadway, Monticello, Sullivan County, New York, at which the following members were present:

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

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	[] Yes	[] No	[] Absent	[] Abstain
Edward T. Sykes	[] Yes	[] No	[] Absent	[] Abstain
Carol Roig	[] Yes	[] No	[] Absent	[] Abstain
Howard Siegel	[] Yes	[] No	[] Absent	[] Abstain
Scott Smith	[] Yes	[] No	[] Absent	[] Abstain
Paul Guenther	[] Yes	[] No	[] Absent	[] Abstain
Sean Brooks	[] Yes	[] No	[] Absent	[] Abstain
Philip Vallone	[] 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 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 103(a) 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 February, 2023.

Carol Roig, Secretary