

RESOLUTION

A regular meeting of the County of Sullivan Industrial Development Agency (“Agency”) was convened on September 11, 2023 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 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	[]	[√]
Kathleen Lara	[√]	[]

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, Agency General Counsel

The following resolution was duly offered by Kathleen Lara, and seconded by Scott Smith, to wit:

Resolution No. 35 - 23

RESOLUTION OF THE AGENCY (I) CONSENTING TO THE ASSIGNMENT OF THE BRR BROTHERS III, LLC PROJECT (“PROJECT”) AND ALL RIGHT, TITLE AND INTEREST IN AND TO THE BRR PROJECT DOCUMENTS (AS HEREINAFTER DEFINED); (II) APPOINTING SULLIVAN GLEN WILD CORP. (“COMPANY”) AS AGENT OF THE AGENCY FOR THE PURPOSE OF OPERATING THE PROJECT AND (III) PROVIDING A MORTGAGE TAX EXEMPTION FOR FINANCING RELATED ACQUISITION TO 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; and

WHEREAS, on or about January 28, 2016, BRR Brothers III, LLC ("BRR") and Sullivan County Fabrications, Inc. ("SCF") 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) acquisition, construction, reconstruction, renovation, rehabilitation, installation and equipping of six (6) buildings aggregating approximately 180,000± square feet intended to be used to accommodate a metal fabrication factory and storage of manufactured products (collectively, "Existing Buildings") situate on two (2) parcels of real estate consisting of approximately 138.26± acres located along Glen Wild Road, Town of Fallsburg ("Town"), Woodridge, County of Sullivan ("County"), State and identified on the Town tax map as Section 62, Block 1, Lot 20.1 and Section 63, Block 1, Lot 4 ("Land"); (ii) acquisition, construction and equipping of the Existing Buildings; (iii) acquisition, construction and installation thereon and therein of certain furniture, fixtures, machinery, equipment and tools ("Equipment"); (iv) construction of improvements to the Existing Buildings, the Land and the Equipment (collectively, the Existing Buildings, the Land and the Equipment are referred to as the "Facility" or the "Project"); and (v) lease of the Facility from the Agency to BRR; and

WHEREAS, on or about April 22, 2016, the Agency and BRR closed on a sale/leaseback transaction at which time the Agency acquired title to the Land from Catskill Hudson Bank and entered into the following documents:

- (i) Agent Agreement ("Agent Agreement")
- (ii) Bill of Sale to Agency ("Bill of Sale to Agency")
- (iii) Bill of Sale to Company (Bill of Sale to Company")
- (iv) Lease Agreement ("Lease Agreement")
- (v) Memorandum of Lease ("Memo of Lease")
- (vi) Payment in Lieu of Taxation Agreement (PILOT Agreement")

The documents listed in (i) through (vi) are collectively referred to as the "BRR Project Documents"); and

WHEREAS, pursuant to a Commitment Letter, dated November 18, 2019, Ulster Savings Bank ("USB") agreed to make a loan to BRR of THREE MILLION AND 00/100 (\$3,000,000.00) Dollars to be secured by a mortgage on the Land ("BRR Loan"); and

WHEREAS, on December 9, 2019, by resolution 67-19 the Agency approved execution of a mortgage to secure the BRR Loan; and

WHEREAS, on December 19, 2019, the Agency and BRR executed a Mortgage, Assignment of Rents, Security Agreement and Fixture Filing, in favor of USB to secure the BRR Loan ("BRR Mortgage"); and

WHEREAS, the BRR Mortgage was recorded in the Office of the Clerk of Sullivan County on December 31, 2019 as Instrument No. 2019-9287; and

WHEREAS, on December 19, 2019, the Agency and BRR executed an Absolute Assignment of Rents and of Landlord's Interest in Leases in favor of USB further securing the BRR Loan ("BRR Loan ALR"); and

WHEREAS, the BRR Loan ALR was recorded in the Office of the Clerk of Sullivan County on December 31, 2019 as Instrument No. 2019-9288; and

WHEREAS, pursuant to two Commitment Letters, each dated November 18, 2019, USB agreed to make two loans to Supermarket Parts Warehouse, Inc. ("SPW", an affiliate of BRR) in the aggregate principal amount of ONE MILLION FIVE HUNDRED THOUSAND and 00/100 (\$1,500,000.00) Dollars ("SPW Loans"); and

WHEREAS, on December 17, 2019, by Resolution #68-19 the Agency approved execution of one or more mortgages to secure the SPW Loans; and

WHEREAS, on December 19, 2019, the Agency and BRR executed a Mortgage, Assignment of Rents, Security Agreement and Fixture Filing, in favor of USB to secure a credit line to SPW ("SPW Credit Line") in an amount not to exceed ONE MILLION and 00/100 (\$1,000,000.00) Dollars ("SPW Credit Line Mortgage"); and

WHEREAS, the SPW Credit Line Mortgage was recorded in the Office of the Clerk of Sullivan County on December 31, 2019 as Instrument No. 2019-9289; and

WHEREAS, on December 19, 2019, the Agency and the Company executed an Absolute Assignment of Rents and of Landlord's Interest in Leases in favor of USB further securing the SPW Credit Line ("SPW Credit Line ALR"); and

WHEREAS, the SPW Credit Line ALR was recorded in the Office of the Clerk of Sullivan County on December 31, 2019 as Instrument No. 2019-9290; and

WHEREAS, on December 19, 2019, the Agency and BRR executed a Mortgage, Assignment of Rents, Security Agreement and Fixture Filing, in favor of USB to secure a term loan to SPW ("SPW Term Loan") in an amount not to exceed FIVE HUNDRED THOUSAND and 00/100 (\$500,000.00) Dollars ("SPW Term Loan Mortgage"); and

WHEREAS, the SPW Term Loan Mortgage was recorded in the Office of the Clerk of Sullivan County on December 31, 2019 as Instrument No. 2019-9291; and

WHEREAS, on December 19, 2019, the Agency and the Company executed an Absolute Assignment of Rents and of Landlord's Interest in Leases in favor of USB further securing the SPW Term Loan ("SPW Term Loan ALR"); and

WHEREAS, the SPW Term Loan ALR was recorded in the Office of the Clerk of Sullivan County on December 31, 2019 as Instrument No. 2019-9292; and

WHEREAS, certain ancient property descriptions of the Land and adjoining land resulted in uncertainty as to the location of a parcel of land formerly occupied by Hunters Haven Club, LLC (“Hunters Haven”); and

WHEREAS, to eliminate the uncertainty, BRR (as beneficial owner of the Land leased from the Agency) and Hunters Haven agreed to establish with certainty the location of the 20-acre parcel occupied by Hunters Haven (“Land Swap”); and

WHEREAS, to accomplish the Land Swap the Agency transferred fee title to a 20-acre parcel to Hunters Haven and Hunters Haven transferred fee title to a parcel of land to the Agency for the benefit of BRR, and

WHEREAS, on August 19, 2021, the Agency, BRR and SCF entered into an Omnibus Amendment to Project Documents to amend the legal description attached to the BRR Project Documents to add the land formerly owned by Hunters Haven conveyed to the Agency and exclude the land conveyed by the Agency to Hunters Haven; and

WHEREAS, in early 2023, SPW and USB agreed to extend the maturity date of the SPW Credit Line to December 31, 2023; and

WHEREAS, on March 30, 2023, by Resolution #12-23 the Agency approved execution of a Modification Agreement; and

WHEREAS, on March 30, 2023, the Agency and SPW, and BRR executed a Note and Mortgage Modification and Extension Agreement, in favor of USB (“SPW Extension Agreement”); and

WHEREAS, the SPW Extension Agreement was recorded in the in the Office of the Clerk of Sullivan County on April 13, 2023 as Instrument No. 2023-3094; and

WHEREAS, by letter dated September 1, 2023, Billig, Loughlin & Silver, LLP on behalf of BRR, SCF and SPW advised that Daniel Resnick as sole member of BRR entered into an agreement to sell the Project to the Company (“Letter Request”); and

WHEREAS, the Letter Request seeks the Agency’s consent to the assignment of BRR’s interest in the Project as required by Section 6.3(b) of the Lease Agreement and Section 21(b) of the Payment in Lieu of Taxation Agreement to the Company; and

WHEREAS, following transfer of BRR’s interest in the Project, SCF and SPW will continue to operate businesses on the Land as a tenant of the Company; and

WHEREAS, by its commitment Letter dated August 3, 2023, USB has agreed to make a loan to the Company in an amount not to exceed THREE MILLION TWO HUNDRED THREE THOUSAND and 00/100 (\$3,203,000.00) Dollars; and

WHEREAS, the USB loan to the Company will be in an amount less than outstanding balance of the BRR Loan and SPW Credit Line (the SPW Term Loan has been previously paid in full); 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

WHEREAS, the Agency has determined the transfer of the Project from BRR to the Company and the action contemplated by this Resolution is a Type II action under SEQR; and

WHEREAS, the Agency has given due consideration the proposed transfer of the Project from BRR to the Company and to representations by the Company that the proposed financial assistance is an inducement to the Company to acquire the Project which will allow SPW and SCF to continue to operate on the Land; 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 Project 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. A Cost Benefit Analysis; 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 for acquiring the Project; and

WHEREAS, following the sale of the Project to the Company, the BRR Project Documents will be terminated; and

WHEREAS, the Chairman has negotiated a Lease Agreement, PILOT Agreement, and related documents with the Company; and

WHEREAS, the Lease Agreement, 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 BRR Project Documents from BRR and SCF to the Company; (ii) designate the Company as its agent for the purpose of the continuing to operate the Project; (iii) provide a mortgage tax exemption for financing related acquisition to the Project.

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

Section 1. The Company's representatives have presented to the Agency the Letter Request 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 action contemplated by this Resolution is a Type II action under SEQR.

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 financial assistance does not exceed the sum of ONE HUNDRED THOUSAND and 00/100 (\$100,000.00) Dollars 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 from BRR and SCF to the Company; (ii) terminate the BRR Project Documents, and (iii) enter into transaction documents between the Agency and the Company governing the Project, including a Lease Agreement 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 continue to operate the Project, thereby increasing employment opportunities in Sullivan 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 BRR Project Documents from BRR and SCF to the Company subject to:

- (A) Payment to the Agency of a consent fee in the amount equal to one (1) times the annual rent; to wit 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 of documents necessary to memorialize the transfer, including but not limited to a Lease Agreement and PILOT Agreement.

Section 6. The PILOT Agreement shall provide the following:

- (A) Tax Parcel 63.-1-4 which is currently not exempt from taxation shall continue to be owned by the Agency but shall not be entitled to an exemption;
- (B) The Total Value subject to PILOT shall be based on a “current value” of SIX HUNDRED TEN THOUSAND and 00/100 (\$610,000.00) Dollars and “improvement value” of THREE HUNDRED THOUSAND and 00/100 (\$300,000.00) Dollars; and
- (C) Commencing with the PILOT Payment for the due date February 1, 2024, and thereafter, the exemption percentage of the Improvement value shall be based on the Agency’s General Tax Abatement Policy.

Section 7. The Lease Agreement, PILOT Agreement, and related documents which were negotiated by the Executive Director, are hereby approved as to form and substance on condition that: (i) the payments under the Lease Agreement include payments of all costs incurred by the Agency arising out of or related to the transfer of 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 transfer of the Project.

Section 8. The Chairperson or Executive Director of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver a Lease Agreement, PILOT Agreement, and related documents, all with such changes, variations, omissions and insertions as Chairperson or Executive Director of the Agency shall approve, the execution thereof by Chairperson or Executive Director of the Agency to constitute conclusive evidence of such approval.

Section 9. The Chairperson or Executive Director of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver to USB a mortgage, assignment of leases and rent, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or 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 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 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 question of adoption of the foregoing resolutions were duly put to a vote on roll call, which resulted as follows:

Suzanne Loughlin	<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
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 type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Sean Brooks	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Philip Vallone	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Kathleen Lara	<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 Secretary of the Agency DO HEREBY CERTIFY THAT:

- 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.
- Such resolution was passed at a meeting of the Agency duly convened in public session on September 11, 2023 at 11:00 a.m. at the Sullivan County Government Center, 100 North Street, Village of 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	[]	[√]
Kathleen Lara	[√]	[]

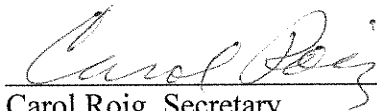
- The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

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
Kathleen Lara	[√] 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 11th day of September, 2023.



Carol Roig, Secretary