

COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY

548 Broadway
Monticello, New York 12701
(845) 428-7575 - Voice
(845) 428-7577 - Fax
www.sullivanida.com
TTY 711

MEETING NOTICE

TO: Suzanne Loughlin, IDA Chairperson
Edward Sykes, IDA Vice Chairman
Carol Roig, IDA Secretary
Howard Siegel, IDA Treasurer & Chief Financial Officer
Scott Smith, IDA Assistant Treasurer
Paul Guenther, IDA Member
Sean Brooks, IDA Member
Philip Vallone, IDA Member
Kathleen Lara, IDA Member
Chairman and Members of the Sullivan County Legislature
Josh Potosek, Sullivan County Manager
John Kiefer, IDA Chief Executive Officer
Walter Garigliano, Esq., IDA Counsel

FROM: Jennifer Flad, Executive Director

DATE: November 7, 2023

PLEASE TAKE NOTICE that there will be a Regular Meeting of the County of Sullivan Industrial Development Agency scheduled as follows:

Date: Monday, November 13, 2023

Time: 11:00 AM

Location: Legislative Committee Room, Sullivan County Government Center, 100 North Street, Monticello, New York 12701

This meeting video will also be livestreamed on the [IDA's YouTube Channel](#).

Meeting documents will be posted online [here](#).

SEE REVERSE FOR AGENDA

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**MEETING AGENDA
MONDAY, NOVEMBER 13, 2023**

I. CALL TO ORDER

II. ROLL CALL

III. APPROVAL OF MEETING MINUTES

October 16, 2023 Regular Meeting

IV. BILLS AND COMMUNICATIONS

V. STAFF REPORT

VI. NEW BUSINESS

Resolution: Appointing Gibbers Estates LLC and M E P Wholesalers Corp. as Agent of the Agency for the Purpose of Acquiring, Constructing, Installing, and Equipping the Project; Making Certain Findings and Determinations with Respect to the Project; Authorizing the Execution and Delivery of an Agent and Project Agreement; Authorizing the Execution of a Lease to Agency, Leaseback to Company, Payment in Lieu of Tax Agreement, and Related Documents with Respect to the Project (re: HVAC and electrical supply retail facility in the Town of Fallsburg)

Resolution: Authorizing the Engagement of Special Transaction Counsel for the Dimifini-Fallsburg, LLC Project (re: Rolling V Bus in the Town of Fallsburg)

Resolution: Authorizing an Amendment of the Empire Resorts Real Estate I, LLC Payment in Lieu of Taxation Agreement (re: Monster Golf Course in the Town of Thompson)

Resolution: Authorizing an Amendment of the Empire Resorts Real Estate II, LLC Payment in Lieu of Taxation Agreement (re: Alder Hotel in the Town of Thompson)

Executive Session: To Discuss the Financial History of a Particular Corporation

Any and All Other Business Before the Board

VII. PUBLIC COMMENT AND ADJOURN

##

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MEETING MINUTES
Monday, October 16, 2023

I. CALL TO ORDER

Vice Chairman Sykes called to order the regular meeting of the County of Sullivan Industrial Development Agency at approximately 11:04 AM in the Legislative Committee Room at the Sullivan County Government Center, 100 North Street, Monticello, New York 12701.

II. ROLL CALL

Members Present-

Edward Sykes
Carol Roig
Howard Siegel
Sean Brooks
Kathleen Lara
Philip Vallone

Members Absent-

Suzanne Loughlin (via Zoom)
Scott Smith
Paul Guenther

Staff Present-

John Kiefer, Chief Executive Officer
Jennifer Flad, Executive Director
Julio Garaicoechea, Project Manager
Bethanii Padu, Economic Development Coordinator

Staff Absent-

None

Others Present-

Walter F. Garigliano, Agency Counsel
Megha Bhouraskar, Project Counsel for Veria Lifestyle, Inc. (via Zoom)
Robert Lorenc, Project Counsel for Veria Lifestyle, Inc. (via Zoom)

III. APPROVAL OF MEETING MINUTES

On a motion made by Ms. Lara, and seconded by Mr. Vallone, the Board voted and unanimously approved the September 11, 2023 regular meeting minutes.

IV. BILLS AND COMMUNICATIONS

Ms. Flad presented the Board with a schedule of payments showing eight payments totaling \$48,007.03. On a motion made by Mr. Siegel, and seconded by Ms. Roig, the Board voted and unanimously approved the schedule of payments.

V. STAFF REPORT & QUATERLY FINANCIAL REPORT

There were no questions on the September staff report and quarterly financial report.

VI. NEW BUSINESS

On a motion made by Mr. Siegel, and seconded by Mr. Vallone, the Board reviewed and discussed a resolution extending the sales tax abatement period for the **Maude Crawford Realty LLC and Bridgeville Ski Company** project from November 1, 2023 through and including April 30, 2024. This resolution relates to the rehabilitation of the Holiday Mountain Ski & Fun Park in the Town of Thompson. Vice Chairman Sykes called the motion to question, the Board voted, and the resolution was unanimously adopted.

On a motion made by Mr. Brooks, and seconded by Ms. Lara, the Board reviewed and discussed a resolution authorizing execution of an amended and restated master development and agent agreement among the Agency, **EPR Concord, EPT Concord**, and together with **EPR Concord and Adelaar Developer** to extend the master developer designation for an additional period of approximately five years ending on October 31, 2028. The resolution relates to the master development of the former Concord Resort site in the Town of Thompson. Vice Chairman Sykes called the motion to question, the Board voted, and the resolution was unanimously adopted.

On a motion made by Mr. Siegel, and seconded by Ms. Lara, the Board reviewed and discussed a resolution authorizing an amendment of the **Adelaar Developer LLC** payment in lieu of taxation agreement to extend the PILOT benefit period by two years. The resolution relates to the indoor water park resort hotel and related facilities in the Town of Thompson. Vice Chairman Sykes called the motion to question, the Board voted, and the resolution was unanimously adopted.

On a motion made by Mr. Siegel, and seconded by Mr. Brooks, the Board reviewed and discussed a resolution authorizing an amendment of the **Montreign Operating Company LLC** payment in lieu of taxation agreement to extend the PILOT benefit period by two years. The resolution relates to the Resorts World Catskills Casino Resort in the Town of Thompson. Vice Chairman Sykes called the motion to question, the Board voted, and the resolution was unanimously adopted.

On a motion made by Mr. Vallone, and seconded by Ms. Roig, the Board reviewed and discussed a resolution authorizing the execution and delivery of a first note extension and mortgage modification agreement securing a loan made to **Yasgur Road Productions LLC** from Bridge Capital Group LLC. The resolution relates to a campground in the Town of Bethel. Vice Chairman Sykes called the motion to question, the Board voted, and the resolution was unanimously adopted.

On a motion made by Mr. Vallone, and seconded by Ms. Roig, the Board reviewed and discussed the **Proposed FY 2024 Budget**. The Board directed staff to raise the legal budget from \$50,000 to \$100,000. Vice Chairman Sykes called the motion to question, the Board voted, and the Proposed FY 2024 Budget was unanimously approved as revised.

Mr. Sykes asked the Board and those present for public comment. The Board recognized the comments of Megha Bhouraskar and Robert Lorenc.

On a motion made by Mr. Brooks, and seconded by Ms. Roig, the Board entered Executive Session to discuss the financial and credit history of a specific corporation at approximately 11:30 AM.

On a motion made by Mr. Siegel, and second by Ms. Roig, the Board exited Executive Session at approximately 12:08 PM.

VII. ADJOURN

On a motion made by Mr. Vallone and seconded by Ms. Roig, the Board adjourned the meeting at approximately 12:09 PM.

Respectfully submitted:

Bethanii Padu, Economic Development Coordinator

##

DRAFT

COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY

548 Broadway, Monticello, NY 12701

845-428-7575

SCHEDULE OF PAYMENTS: November 13, 2023

No.	Vendor	Description	Amount
1	Bluestein, Shapiro, Frank & Barone LLP	Solar PILOT Agreements (NY Thompson III, NY Liberty II & NY Mamakating I) (<i>pass-through</i>)	\$ 300.00
2	Charter Communications	Phone and Internet Services November 2023	\$ 279.95
3	Deborah Nola	Accounting & Payroll Services- October 2023	\$ 500.00
4	Elan Financial	Zoom, Adobe, Document Recording Fees, NYS Dept. of State, GoToMyPC, GoDaddy, FP Mailing Solutions, SC Clerk database	\$ 822.52
5	Kristt Kelly Office Systems Corp.	Office Supplies (paper, toners, service contracts (Ecosys M3540/FS1128))	\$ 948.30
6	New Southern Tier Title Agency	Office Rent: December 2023	\$ 3,700.00
7	Shepstone Management Company	Cost Benefit Analysis (MEP Wholesalers) (<i>pass through</i>)	\$ 2,100.00
8	Sullivan County Democrat	Legal notice & affidavit (MEP Wholesalers) (<i>pass through</i>)	\$ 87.80
9	Walter F. Garigliano, P.C.	November 2023 Retainer	\$ 250.00
10	Wilson, Elser, Moskowitz, Edelman & Dicker LLP	Hudsut/HVFG	\$ 5,140.47
11	USDA Rural Development	RMAP Loan Payment November 2023	\$ 2,370.41
TOTAL			\$ 16,499.45

I certify that the payments listed above were audited by the Board of the IDA on November 13, 2023 and allowed in the amounts shown. You are hereby authorized and directed to pay each of the claimants in the amount opposite its name.

11/13/2023

Signature

Date

Expenses Approved and Paid Since Last Regular Meeting (10/16/23)

No.	Vendor	Description	Amount
1			
2			\$ -
TOTAL			\$ -

Other Expenses and Items Paid Since Last Regular Meeting (10/16/23)—no approval required

No.	Vendor	Description	Amount
1	Payroll Expenses	Payroll Check Dates: 10/20/23 , 11/3/23	\$ 22,113.12
2	Francoty-Postalia	Postage for postage meter	\$ 200.00
TOTAL			\$ 22,313.12

ACTIVITY REPORT – OCTOBER 2023
COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY (IDA), SULLIVAN COUNTY
FUNDING CORPORATION (SCFC), THE SULLIVAN COUNTY INFRASTRUCTURE LOCAL
DEVELOPMENT CORPORATION (TSCILDC)

November 7th, 2023

The IDA Board held its regular monthly meeting on October 16th, at which time the Board adopted the following resolutions:

- Resolution authorizing the amendment of the **EPR Concord II, L.P., EPT Concord II, LLC, and Adelaar Developer, LLC** Master Developer and Agent Agreement, to extend the master developer designation for approximately five years. This relates to the master development of the former Concord Resort site in the Town of Thompson.
- Resolution extending the sales tax abatement period for the **Maude Crawford Realty LLC and Bridgeville Ski Company, Inc.** Project (rehabilitation of Holiday Mountain Ski & Fun Park in the Town of Thompson).
- Resolutions authorizing the amendment of the **Adelaar Developer, LLC** (Kartrite Waterpark) and **Montreign Operating Company LLC** (Resorts World Casino) Payment in Lieu of Taxation (PILOT) Agreements, to extend the PILOT benefit periods for these two projects by two years.
- Resolution authorizing a mortgage modification and extension relating to the **Yasgur Road Productions, LLC** Project (campground in the Town of Bethel).

The Sullivan County Funding Corporation (SCFC) and The Sullivan County Infrastructure Local Development Corporation (TSCILDC) Boards also met on October 16. At the October 16 meetings, all three agencies adopted their **2024 budgets and financial plans**. Staff distributed the adopted budgets and financial plans to local and New York State officials in accordance with the General Municipal Law and Public Authorities Law.

Staff members attended recent meetings of the Sullivan-Wawarsing Rural Economic Area Partnership (REAP) Board and Resilient Sullivan Advisory Committee.

There will be an IDA public hearing on the proposed **M E P Wholesalers Corp. and Gibbers Estates LLC** Project on Wednesday, November 8th at 9:30 AM in the Town of Fallsburg Court Room, 19 Railroad Plaza, South Fallsburg. This project relates to the development of a heating, ventilation, air conditioning, and electrical supply retail sales facility with accessory office and warehousing space in South Fallsburg.

The next regular meeting of the IDA Board will be held on Monday, November 13th at 11:00 AM in the Legislative Committee Room at the Sullivan County Government Center. The TSCILDC Board will also meet on November 13th following the IDA meeting to conduct routine business.

##

COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY
548 Broadway
Monticello, New York 12701
845-428-7575
APPLICATION FOR FINANCIAL ASSISTANCE

I. A. APPLICANT INFORMATION:


Company Name: GIBBERS ESTATES, LLC

Address: 37 Gafen Lane Kiamesha Lake, NY 12751

Phone No.: 845-200-2070 ext 101

Telefax No.: _____

Email Address: chaim@mepwholesalers.com

Fed Id. No.: 

Contact Person: Chaim Katz

Principal Owners/Officers/Directors (list owners with 15% or more in equity holdings with percentage ownership):

Principal Owners (Shareholders/Members/Owners): Chaim Katz

Directors/Managers: Chaim Katz, Sole Director

Officers: Chaim Katz, Sole Officer

Corporate Structure (attach schematic if Applicant is a subsidiary or otherwise affiliated with another entity)

Form of Entity:

_____ Corporation (Sub-s)

Date of incorporation: _____

State of incorporation: _____

_____ Partnership

General _____ or Limited _____

Number of general partners _____

If applicable, number of limited partners _____
Date of formation: _____
Jurisdiction formation: _____

Limited Liability Company/Partnership (number of members 1)

Date of organization: April 2023
State of organization: New York

Sole Proprietorship

If a foreign organization, is the Applicant authorized to do business in the State of New York? Yes No N/A (If so, please append Certificate of Authority.)

B. APPLICANT INFORMATION:

Company Name: MEP WHOLESALERS CORP.

Address: 37 Gafen Lane Kiamesha Lake, NY 12751

Phone No.: 845-200-2070 ext 101

Telefax No.: _____

Email Address: chaim@mepwholesalers.com

Fed Id. No.: [REDACTED]

Contact Person: Chaim Katz

Principal Owners/Officers/Directors (list owners with 15% or more in equity holdings with percentage ownership):

Principal Owners (Shareholders/Members/Owners): Chaim Katz, Sole Director

Directors/Managers: Chaim Katz, Sole Director

Officers: Chaim Katz, Sole Officer

Corporate Structure (attach schematic if Applicant is a subsidiary or otherwise affiliated with another entity)

Form of Entity:

Corporation (Sub-s)

Date of incorporation: April 2022
State of incorporation: New York

 Partnership

General _____ or Limited _____
Number of general partners _____
If applicable, number of limited partners _____
Date of formation: _____
Jurisdiction formation: _____

 Limited Liability Company/Partnership (number of members _____)

Date of organization: _____
State of organization: _____

 Sole Proprietorship

If a foreign organization, is the Applicant authorized to do business in the State of New York? Yes___ No___ N/A (If so, please append Certificate of Authority.)

APPLICANT'S COUNSEL

Name: Baum Law, P.C.

Address: 438 Broadway P.O Box 1260 Monticello, NY 12701

Phone No.: 845-791-1000

Telefax No.: _____

Email Address: rsbaum@baumlawpc.com

II. REQUESTED FINANCIAL ASSISTANCE

	<u>Estimated Value</u>
Real Property Tax Abatement (estimated)	\$ <u>TBD</u>
Mortgage Tax Exemption	\$ <u>21,000</u>
Sales and Use Tax Exemption	\$ <u>56,000</u>
Issuance by the Agency of Tax Exempt Bonds	\$ _____

III. PROJECT INFORMATION

A.) Project Location:

Project Address: 30 LA VISTA DRIVE SOUTH FALLSBURG, NY, 12779
Tax Map Number(s): SECTION 60. BLOCK 1 LOT 21.1
Located in the Village of: X TOWN OF FALLSBURG
Located in Town of FALLSBURG
Located in the School District of FALLSBURG
Located in Hamlet of _____

(i) Are Utilities on Site?

Water/Sewer / Electric /
Gas X Storm Sewer X

(ii) Present legal owner of the site: GIBBERS ESTATES LLC

If other than Applicant, by what means will the site be acquired for this Project:

(iii) Zoning of Project Site: Current: I Proposed: I

(iv) Are any variances needed: X

(v) Principal Use of Project upon completion: _____
HVAC, ELECTRIC SUPPLY and OFFICES

B.) Will the Project result in the removal of a plant or facility of the Applicant or a proposed Project occupant from one area of the State of New York to another area of the State of New York? NO; If yes, please explain:

C.) Will the Project result in the abandonment of one or more Plants or facilities of the Applicant or a proposed Project occupant located in the State of New York? NO; If yes, please explain:

D.) If the answer to either question B or C above is yes, you are required to indicate whether any of the following apply to the Project:

1. Is the Project reasonably necessary to preserve the competitive position of the Applicant or such Project Occupant in its industry? Yes _____; No _____. If yes, please explain:

2. Is the Project reasonably necessary to discourage the Applicant or such Project Occupant from removing such other plant or facility to a location outside the State of New York? Yes _____; No _____. If yes, please explain:

E.) Will the Project include facilities or property that will be primarily used in making retail sales of goods or provide services to customers who personally visit such facilities? YES; If yes, please contact the Agency for additional information.

F.) Please provide a narrative of the Project and the purpose of the Project (new build, renovations, and/or all equipment purchases). Identify specific uses occurring within the Project. Describe any and all tenants and any/all end users. Describe the proposed acquisitions, construction or reconstruction and a description of the costs and expenditures expected. Attach additional sheets, if necessary.

Construction of a multiple use of building for display, sale, warehouse and offices for retail and wholesale distribution of HVAC and electric supply. Property has been purchased by holding company Gibbers estates, LLC and for construction budget and details, see attached sheet. Tenant is MEP Wholesalers Corp, a joint applicant for IDA benefits.

G.) COSTS AND BENEFITS OF THE PROJECT

Costs = Financial Assistance

Estimated Sales Tax Exemption	\$ 56,000
Estimated Mortgage Tax Exemption	\$ 21,000
Estimated Property Tax Abatement	\$ TBD
Estimated Interest Savings IRB Issue	\$ _____

Benefits= Economic Development

Jobs created	\$ 275,000 5 FTE
Jobs retained	\$ _____
Private funds invested	\$ 2,525,000
Other Benefits	\$ _____

Estimate how many construction/permanent jobs will be created or retained as a result of this Project:

Construction:	20
Permanent:	5
Retained (at current facility):	

Project Costs (Estimates)	
Land and Existing Buildings	\$ 1.9 MILLION
Soft Costs (5%)	\$ 75,000
Other	\$ 550,000
Total	\$ 2,525,000

In addition to the above estimated capital costs of the project, which must include all costs of real property and equipment acquisition and building construction or reconstruction, you must include details on the amounts to be financed from private sector sources, an estimate of the percentage of project costs financed from public sector sources and an estimate of both the amount to be invested by the Applicant and the amount to be borrowed to finance the Project.

The construction project will be 100% private sector financing. \$2,100,000 will be from bank loans, \$350,000 was the owner's acquisition of the land and \$75,000 soft cost is from the owner's own funds.

In addition to the job figures provided above, please indicate the following:

- 1) The projected number of full time equivalent jobs that would be retained and that would be created if the request for financial assistance is granted.

5

THE PROJCT WILL BEA A

- 2) The projected timeframe for the creation of new jobs.

APRIL 2024

- 3) The estimated salary and fringe benefit averages or ranges for categories of the jobs that would be retained or created if the request for financial assistance is granted.

\$100,000 for general manager

\$110,000 for sales

\$ 65,000 for warehouse/drivers

- 4) An estimate of the number of residents of the economic development region as established pursuant to section two hundred thirty of the Economic Development Law, in which the project is located that would fill such jobs. The

labor market area defined by the agency (Mid-Hudson Economic Development Region)

1,433,386

H.) State whether there is a likelihood that the project would not be undertaken but for the financial assistance provided by the Agency, or, if the project could be undertaken without financial assistance provided by the Agency, a statement indicating why the project should be undertaken by the Agency _____

The project is depending on the IDA benefits

IV. REPRESENTATIONS BY THE APPLICANT

The Applicant understands and agrees with the Agency as follows:

- A) Job Listings. In accordance with Section 858-b (2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the "DOL") and with the administrative entity (collectively with the DOL, the "JTPA Entities") of the service delivery area created by the federal job training partnership act (Public Law 97-300) ("JTPA") in which the Project is located.
- B) First Consideration for Employment. In accordance with Section 858-b (2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, where practicable, the Applicant will first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for new employment opportunities created as a result of the Project.
- C) Annual Sales Tax Filings. In accordance with Section 874(8) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the Applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the Applicant and all consultants or subcontractors retained by the Applicant.
- D) Annual Employment Reports. The Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the Applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site.

- E.) Absence of Conflicts of Interest. The Applicant has received from the Agency a list of the members, officers, and employees of the Agency. No member, officers or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as hereinafter described.
- F.) The Applicant represents that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:

§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

- G.) The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.
- H.) The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement the Project.
- I.) The Applicant confirms and hereby acknowledges that as of the date of this Application, the Applicant is in substantial compliance with all provisions of Article 18-A of the New York General Municipal Law, including, but not limited to, the provision of Section 859-a and Section 862(1) of the New York General Municipal Law.

The Applicant and the individual executing this Application on behalf of the Applicant acknowledge that the Agency will rely on the representations made herein when acting on this Application and hereby represent that the statements made herein do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

(APPLICANT)
Gibbers Estate LLC
Chaim Katz, Sole member
By: (NAME, TITLE)

Date: SEPTEMBER 18, 2023


(APPLICANT)
MEP Wholesalers Corp.
Chaim Katz, President
By: (NAME, TITLE)

Date: SEPTEMBER 18, 2023

STATE OF NEW YORK)
COUNTY OF SULLIVAN) ss.:

Chaim Katz, being first duly sworn, deposes and says:

1. That I am the PRINCIPAL of GIBBERS ESTATE LLC (collectively, the "Applicant") and that I am duly authorized on behalf of the Applicant to bind the Applicant.
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.


(NAME)

Subscribed and affirmed to me under penalties of perjury
this 20 day of SEPTEMBER 2023.


(Notary Public)

RICHARD S BAUM
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 02BA4977821
Qualified in Sullivan County
Commission Expires February 19, 20

THIS APPLICATION SHALL BE SUBMITTED WITH (I) TWO CHECKS: ONE COVERING A \$250.00 APPLICATION FEE AND THE SECOND COVERING A \$5,000.00 UP-FRONT ESCROW DEPOSIT; AND (II) APPLICANT'S FORMATION DOCUMENTS (IE: IF A CORPORATION: ITS CERTIFICATE OF INCORPORATION AND BYLAWS; IF A LIMITED LIABILITY COMPANY: ITS ARTICLES OF ORGANIZATION AND OPERATING AGREEMENT; IF A LIMITED PARTNERSHIP: ITS CERTIFICATE OF LIMITED PARTNERSHIP AND LIMITED PARTNERSHIP AGREEMENT; OR IF A PARTNERSHIP: ITS PARTNERSHIP AGREEMENT TO:

**COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY
Executive Director
548 BROADWAY
MONTICELLO, NEW YORK 12701**

HOLD HARMLESS AGREEMENT

Applicant hereby releases the COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY and the members, officers, servants, agents and employees thereof ("Agency") from, agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (A) the Agency's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the Application or the Project described therein or the tax exemptions and other assistance requested therein are favorably acted upon by the Agency, (B) the Agency's acquisition, construction and/or installation of the Project described therein and (C) any further action taken by the Agency with respect to the Project; including without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. If, for any reason, the Applicant fails to conclude or consummate necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable, proper or requested action, or withdraws, abandons, cancels or neglects the Application, or if the Agency or the Applicant are unable to reach final agreement with the respect to the Project, then, and in the event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Agency, its agents or assigns, all costs incurred by the Agency in the processing of the Application, including attorneys' fees, if any.

(APPLICANT) Ch 20
Gibbers Estab LLC
By: (NAME, TITLE)

Date: 9/20/23

(APPLICANT) Ch 20
Met Wholesale Corp
By: (NAME, TITLE)

Date: 9/20/23

AFFIRMED

Sworn to before me this
20th day of SEPTEMBER, 2023

Notary Public [Signature]

RICHARD S BAUM
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 02BA4977821
Qualified in Sullivan County
Commission Expires February 19, 20

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the County of Sullivan Industrial Development Agency (the "Agency") on November 8, 2023, at 9:30 a.m., local time, in the Town of Fallsburg Court Room, 19 Railroad Plaza, South Fallsburg, New York, in connection with the following matter:

Gibbers Estates LLC ("Gibbers") and M E P Wholesalers Corp. ("M E P," and together with Gibbers collectively, the "Company") has submitted an application (the "Application"), a copy of which is on file with the Agency, requesting the Agency's assistance with a certain project consisting of the: (i) acquisition, construction, installation and equipping of an approximately 15,000 +/- square foot building to include a heating, ventilation, air conditioning, and electrical supply retail sales facility with accessory office and warehousing space ("Building") situate on one (1) parcel of real estate containing approximately 7.01 acres of land located on La Vista Drive, Town of Fallsburg ("Town"), County of Sullivan ("County"), State of New York and identified on the Town tax map as Section 60, Lot 1, Block 21.1 ("Land"); (ii) construction and installation thereon and therein of certain furniture, fixtures, machinery, equipment and tools ("Equipment"); (iii) construction of improvements to the Building, the Land and the Equipment (collectively, the Building, the Land and the Equipment are referred to as the "Project"); and (iv) lease of the Project from the Agency to the Company.

The Agency will acquire title to, or a leasehold interest in, the Project and lease the Project back to the Company. The Company will operate the Project during the term of the lease. At the end of the lease term, the Company will purchase the Project from the Agency, or if the Agency holds a leasehold interest, the leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company in the form of sales and use tax exemptions and a mortgage recording tax exemption, consistent with the policies of the Agency, and a partial real property tax abatement.

A representative of the Agency will be at the above-stated time and place to present a copy of the Company's Project Application and hear and accept written and oral comments from all persons with views in favor of or opposed to or otherwise relevant to the proposed Financial Assistance.

Dated: October 25, 2023

By:

COUNTY OF SULLIVAN INDUSTRIAL
DEVELOPMENT AGENCY

Gibber Estates LLC MEP Wholesalers Corp.

Application to County of Sullivan Industrial Development
Agency for Financial Assistance for



MEP Wholesalers Facility Benefit/Cost Analysis

Prepared by:

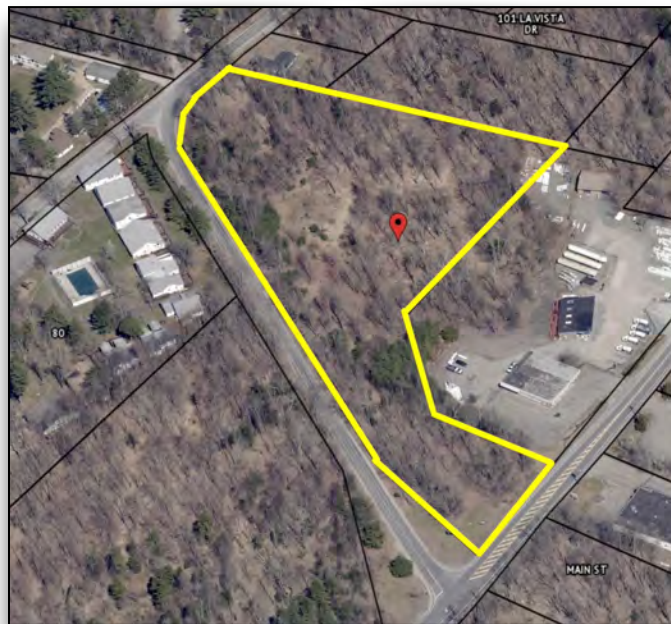
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November, 2023

MEP Wholesalers Facility Benefit/Cost Analysis

Background:

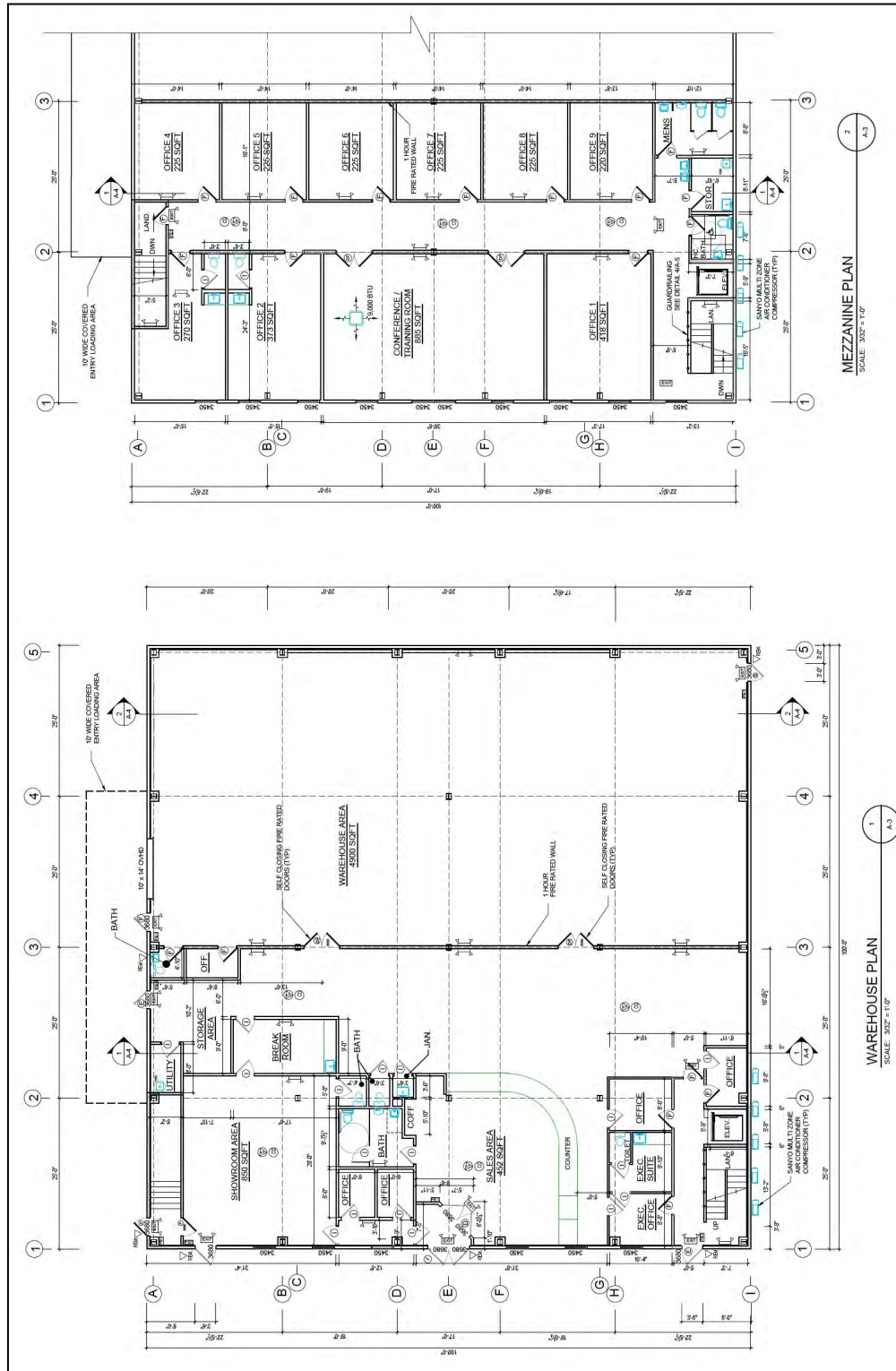
Gibber Estates, LLC and MEP Wholesalers Corp. (hereinafter jointly referred to as “MEP Wholesalers”) have applied for financial assistance to construct a new 15,000 square foot HVAC/ electrical supply house and retail space in South Fallsburg. The location is 30 La Vista Drive in the Town of Fallsburg (Tax Map Parcel 60-1-21.1). A parcel map follows and the floor plan may be found on the next page.



It is estimated \$2,525,000 will be invested altogether, including \$350,000 to acquire the property, and \$1,550,000 in construction (of which roughly 45% or \$700,000 represents sales taxable materials). Applying typical assessments for comparable projects yields an estimated \$775,000 of assessed value for new real property improvements. MEP Wholesalers has applied to the County of Sullivan Industrial Development Agency (IDA) for real property, mortgage and sales tax abatements to assist with the project.

MEP Wholesalers Facility

Benefit/Cost Analysis



MEP Wholesalers Facility Benefit/Cost Analysis

New York State law governing IDAs requires "an analysis of the costs and benefits of the proposed project." Shepstone Management Company, Inc. has been requested by the IDA to provide such an analysis on an independent basis.

This study is designed to compare the economic benefits of the project, including both direct and indirect revenues generated for local and state government, against the costs to these governments for additional services required. Both direct and indirect costs are considered on this side of the equation as well.



The following is a summary of the findings from this analysis, including supporting sources forming the basis for the conclusion reached.

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Methods and Assumptions:

The following methods and assumptions were employed for this analysis of this project:

- 1) The project involves an estimated \$1,550,000 in various improvements that qualify as real property, of which 45% or \$700,000 are assumed to be sales taxable material and equipment purchases. These improvements will be made in phases that are, purposes of this analysis, are considered as taking place over a 2023-24 construction period, although the actual period could be longer.

- 2) It is assumed the IDA will approve a PILOT Agreement under the IDA's [Section 301.b Uniform Tax Exemption Policy Retail Sales Program](#), the PILOT to apply to the estimated assessed value of the real property improvements. The estimated assessed value is \$775,000 based on comparison with the assessed values of other comparable retail projects. The PILOT schedule is detailed in the table to the right.

Real Property Tax [Retail Program] Abatement Schedule		
Year	PILOT %	% Abated
1	50.0%	50.0%
2	55.0%	45.0%
3	60.0%	40.0%
4	65.0%	35.0%
5	70.0%	30.0%
6	75.0%	25.0%
7	80.0%	20.0%
8	85.0%	15.0%
9	90.0%	10.0%
10	95.0%	5.0%
11	100.0%	0.0%
12	100.0%	0.0%
13	100.0%	0.0%
14	100.0%	0.0%
15	100.0%	0.0%

- 3) It is further assumed there will be a \$2,100,000 mortgage and abatement of this tax will be part of this project.

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- 4) It is anticipated this project will involve five full-time equivalent jobs in Sullivan County at an average salary of \$55,000 per year with an equal number construction FTE jobs (up to 20 jobs for 3 months) at the same rate.
- 5) Additional annual costs to local government for providing highway maintenance and other non-educational services in the Town of Fallsburg were estimated based on the annual tax levy per household with a total of two new households attracted (25% of employees x employment multiplier of 1.50).



- 6) Additional school costs are anticipated and are based on an estimated one new student at an average educational cost of \$15,300 net of state aid.
- 7) Sales taxes from operations are based on a conservative starting projection of \$2,570,000 per year of sales, growing from there, with an estimated 50% being new to Sullivan County.
- 8) Cash flow streams from benefits and costs are net present valued using a discount rate of 2.828% ([current interest rate on the public debt over last five years](#)). Net present value figures include actual costs of abatements and other costs for 2023 plus discounted values for 2024-2044.

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Conclusion:

This project will generate costs of \$77,000 in real property, mortgage and sales tax abatements over the period of the standard PILOT agreement plus five years. Real property tax abatements in this case are valued as \$0 due to the fact the Sullivan County IDA's Retail Sales Program offers no additional benefits beyond those which can be obtained under Section 485-b of the Real Property Tax Law. Net present valued the costs, therefore, still amount to a total of \$77,000 for sales and mortgage abatements that are limited to the construction period. There are also estimated highway and other municipal costs that, net present valued, amount to \$128,850 and school costs (\$89,485 at net present value).

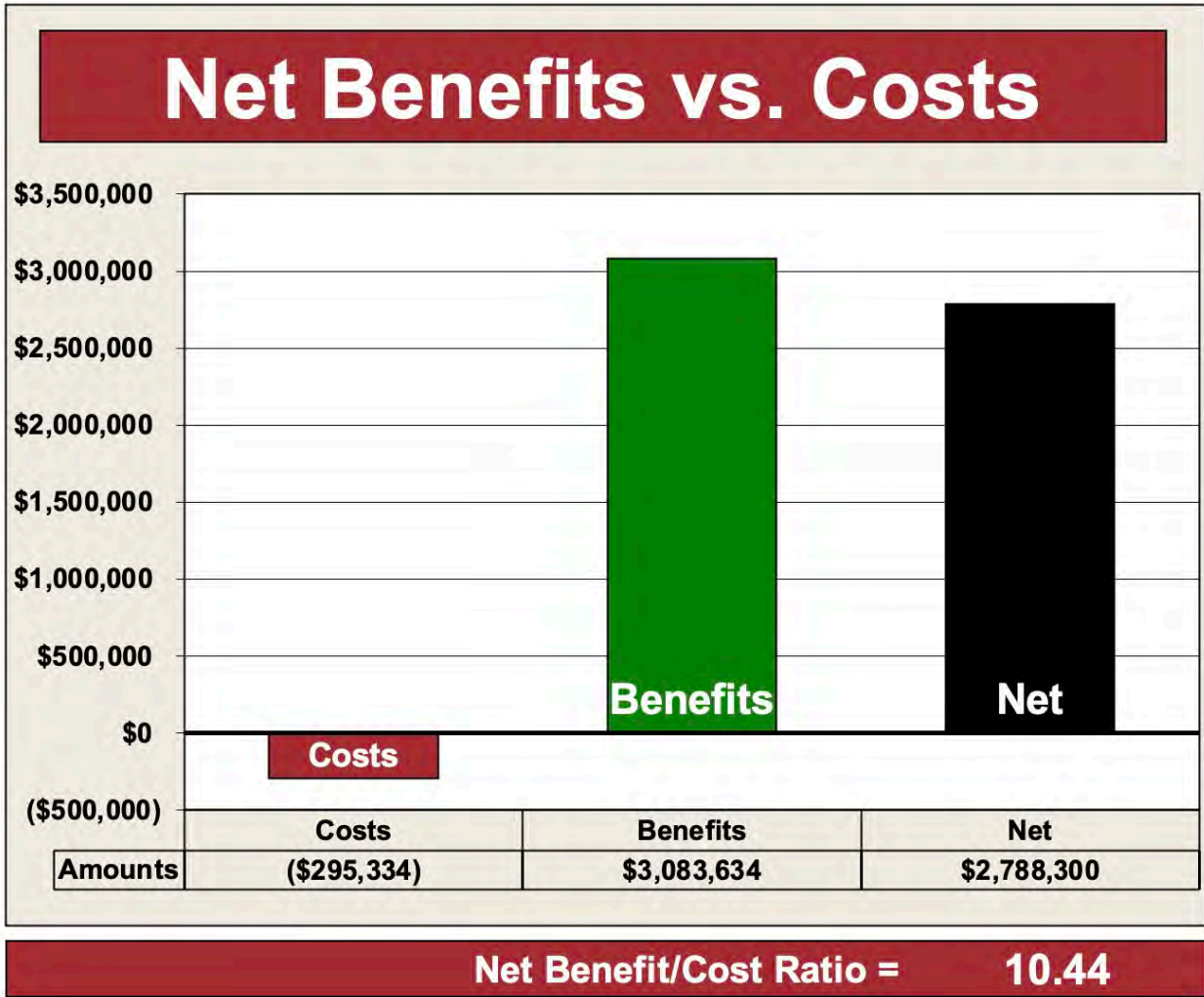
The project benefits, net present valued, consist of sales taxes from operations (\$2,089,411) and personal income gains, including multiplier effects, (\$1,439,264) for a total of \$4,522,899 over the analysis period.

This yields a positive benefit/cost ratio of 15.31 to 1.00. Leaving aside personal income gains, the ratio is still 10.44 to 1.00.

MEP Wholesalers Facility Benefit/Cost Analysis

Cost/Benefit Analysis	
Costs (2023-2044)	
Sales Tax Abatements (County)	\$28,000
Sales Tax Abatements (State)	\$28,000
Mortgage Tax Abatements	\$21,000
Real Property Tax Reductions Net of 485-b Benefits	\$0
Sub-Total (Value of All Abatements) =	\$77,000
Net Present Value of Abatements	\$77,000
Additional School Costs	\$89,485
Variable Highway & Other Municipal Costs	\$128,850
Total Costs (Net Present Value)=	\$295,334
Benefits (Net Present Value, 2023-2044)	
Real Property Taxes	\$994,224
Sales Taxes (From Operations)	
County	\$1,044,705
State	\$1,044,705
Personal Income Gains (New and Retained Jobs)	\$1,439,264
Total Benefits =	\$4,522,899
Excess Benefits Over Costs =	\$4,227,564
Excess Benefits Over Costs (Net of Income Gains)=	\$2,788,300
Benefits to Costs Ratio =	15.31
Net Benefits to Costs Ratio =	10.44

MEP Wholesalers Facility Benefit/Cost Analysis



MEP Wholesalers Facility Benefit/Cost Analysis

Economic Analysis of Project and Requested Tax Abatement Program												
FISCAL YEAR	2023-24	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
DESCRIPTION	C1	1	2	3	4	5	6	7	8	9	10	11
Sales Tax Abatement	\$56,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Mortgage Tax Abatement	\$21,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Real Property Tax Abatement	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Highway/Other Costs	\$0	\$6,520	\$6,716	\$6,917	\$7,125	\$7,339	\$7,559	\$7,786	\$8,019	\$8,260	\$8,508	\$8,763
School Costs	\$0	\$4,528	\$4,664	\$4,804	\$4,948	\$5,097	\$5,250	\$5,407	\$5,569	\$5,736	\$5,908	\$6,086
Real Property Taxes	\$0	\$29,116	\$32,988	\$37,067	\$41,360	\$45,878	\$50,630	\$55,625	\$60,875	\$66,390	\$72,180	\$78,259
Personal Income - New/Retained Jobs	\$0	\$70,813	\$75,125	\$77,379	\$79,700	\$82,091	\$84,554	\$87,090	\$89,703	\$92,394	\$95,166	\$98,021
Indirect Income Benefits	\$0	\$35,406	\$37,562	\$38,689	\$39,850	\$41,046	\$42,277	\$43,545	\$44,852	\$46,197	\$47,583	\$49,011
Added Sales Tax (Operators)	\$0	\$102,800	\$109,061	\$112,332	\$115,702	\$119,173	\$122,749	\$126,431	\$130,224	\$134,131	\$138,155	\$142,299

Economic Analysis of Project and Requested Tax Abatement Program												
FISCAL YEAR	2036	2037	2038	2039	2040	2041	2042	2043	2044	TOTALS		
DESCRIPTION	12	13	14	15	16	17	18	19	20	21	Actual	NPV
Sales Tax Abatement	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$56,000	\$56,000
Mortgage Tax Abatement	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$21,000	\$21,000
Real Property Tax Abatement	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Highway/Other Costs	\$9,026	\$9,296	\$9,575	\$9,863	\$10,158	\$10,463	\$10,777	\$11,100	\$11,433	\$11,776	\$175,203	\$128,850
School Costs	\$6,268	\$6,456	\$6,650	\$6,849	\$7,055	\$7,267	\$7,485	\$7,709	\$7,940	\$8,179	\$121,676	\$89,485
Real Property Taxes	\$80,606	\$83,025	\$85,515	\$88,081	\$90,723	\$93,445	\$96,248	\$99,136	\$102,110	\$105,173	\$1,389,259	\$994,224
Personal Income - New/Retained Jobs	\$100,962	\$103,991	\$107,110	\$110,324	\$113,633	\$117,042	\$120,554	\$124,170	\$127,895	\$131,732	\$1,957,717	\$1,439,264
Indirect Income Benefits	\$50,481	\$51,995	\$53,555	\$55,162	\$56,817	\$58,521	\$60,277	\$62,085	\$63,948	\$65,866	\$978,888	\$719,632
Added Sales Tax (Operators)	\$146,568	\$150,965	\$155,494	\$160,159	\$164,964	\$169,913	\$175,010	\$180,260	\$185,668	\$191,238	\$2,842,059	\$2,089,411

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Dan Hust
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COUNTY OF SULLIVAN
County Manager's Office
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Monticello, NY 12701

November 3, 2023

Suzanne R. Loughlin, Chairperson
County of Sullivan Industrial Development Agency
548 Broadway
Monticello, New York 12701

Re: County of Sullivan Industrial Development Agency ("Agency") with M E P Wholesalers Corp. and Gibbers Estates LLC

Dear Ms. Loughlin,

New York State General Municipal Law ("GML") Section 862 relating to restrictions on funds of industrial development agencies states that no financial assistance shall be provided by an industrial development agency to a proposed project that is or will be primarily engaged in making retail sales to customers, unless (among other exceptions) the project is located in a highly distressed area. In accordance with Section 862 of the GML, if an industrial development agency authorizes a proposed retail project because it is located in a highly distressed area, then the agency must also find that undertaking the project will preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in New York State. Where the agency makes such a finding, prior to providing financial assistance to the project by the agency, the chief executive officer of the municipality for whose benefit the agency was created must confirm the proposed action of that agency.

M E P Wholesalers Corp. and Gibbers Estates LLC (together, "Company") has presented an application to the Agency requesting the Agency's assistance with a project consisting of the acquisition, construction, installation and equipping of an approximately 15,000 +/- square foot building to include a heating, ventilation, air conditioning, and electrical supply retail sales facility with accessory office and warehousing space ("Project") in the hamlet of South Fallsburg, Town of Fallsburg, County of Sullivan. It is my understanding that the Agency has found that the Project is located within a highly distressed area as defined by Section 854 of the GML.

Based upon the representations in the Company's application to the Agency, the Company expects that approximately twenty temporary construction jobs and five permanent full-time equivalent jobs will be created, should the Project receive financial assistance from the Agency. It is anticipated that the Agency will consider approval of the Project at its meeting on November 13, 2023.

Based upon the above purported facts and the representations set forth in the Company's application to the Agency, I hereby confirm the aforementioned action of the Agency with respect to this matter.

Sincerely,



Joshua A. Potossek
County Manager

cc: Walter F. Garigliano, Agency Counsel

RESOLUTION

A regular meeting of the County of Sullivan Industrial Development Agency (“Agency”) was convened on November 13, 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 _____, and seconded by _____, to wit:

Resolution No. ____ - 23

RESOLUTION OF THE AGENCY APPOINTING GIBBERS ESTATES LLC (“GIBBERS”) AND M E P WHOLESALERS CORP. (“M E P,” AND TOGETHER WITH GIBBERS COLLECTIVELY, THE “COMPANY”) AS ITS AGENT FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, INSTALLING AND EQUIPPING THE PROJECT (HEREINAFTER DEFINED); MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE PROJECT; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGENT AND PROJECT AGREEMENT BETWEEN THE AGENCY AND THE COMPANY; AUTHORIZING THE AGENCY TO EXECUTE THE LEASE TO AGENCY (“LEASE”), LEASEBACK TO COMPANY (“LEASEBACK”), PAYMENT IN

LIEU OF TAX AGREEMENT (“PILOT AGREEMENT”) AND RELATED DOCUMENTS WITH RESPECT TO THE ACQUISITION, CONSTRUCTION, INSTALLATION AND EQUIPPING OF THE PROJECT

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 September 18, 2023, the Company presented an application to the Agency (“Application”), 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, installation and equipping of an approximately 15,000 +/- square foot building to include a heating, ventilation, air conditioning, and electrical supply retail sales facility with accessory office and warehousing space (“Building”) situate on one (1) parcel of real estate containing approximately 7.01 acres of land located on La Vista Drive, Town of Fallsburg (“Town”), County of Sullivan (“County”), State of New York and identified on the Town tax map as Section 60, Lot 1, Block 21.1 (“Land”); (ii) construction and installation thereon and therein of certain furniture, fixtures, machinery, equipment and tools (“Equipment”); (iii) construction of improvements to the Building, the Land and the Equipment (collectively, the Building, 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, it is contemplated that the Agency will (i) designate the Company as its agent for the purpose of acquiring, constructing, installing and equipping the Project; (ii) negotiate and enter into an Agent and Project Agreement, the Lease, the Leaseback and the PILOT Agreement with the Company (collectively, the “Transaction Documents”); (iii) hold a leasehold interest in the Land, the improvements and personal property thereon which constitute the Project; and (iv) provide financial assistance to the Company in the form of (a) sales tax exemption for purchases related to the acquisition, construction, 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; and (c) a mortgage tax exemption for financing related to the Project; and

WHEREAS, the total financial assistance being contemplated by the Agency is greater 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, to aid the Agency in determining whether the Project may have significant adverse effects on the environment, the Company has presented a Short Environmental Assessment Form (“EAF”) to the Agency with respect to the Project for its review; and

WHEREAS, the Agency has determined that the Project is an Unlisted Action under SEQR; 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 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 and undertaking the Project; and

WHEREAS, the Executive Director has negotiated the Transaction Documents with the Company; and

WHEREAS, the Transaction 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:

- (A) An Application in form acceptable to the Agency;
- (B) A Cost/Benefit Analysis relating to the proposed financial assistance; and
- (C) A Short EAF.

Section 2. Based upon (i) the representations made by the Company to the Agency, and (ii) a review of the EAF presented to the Agency, the EAF reviewed and acted upon by

the Town of Fallsburg Planning Board, and (iii) related documents, the Agency hereby determines that:

- (A) The Project is an Unlisted Action under the SEQR. Based upon the review by the Agency of the EAF the Town of Fallsburg SEQR proceedings and the representations made by the Company to the Agency in connection with the Project, the Agency hereby finds that (i) the Project will result in no major impacts and therefore, is one which may not cause significant damage to the environment; (ii) the Project will not have a “significant effect on the environment” as such quoted term is defined in Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State; and (iii) no “environmental impact statement” as such quoted term is defined in SEQR need be prepared for this action. This determination constitutes a negative declaration for purposes of SEQR. The Agency’s findings are incorporated in the EAF.

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, and notices of this negative declaration shall be filed in such offices, posted in such places, and published in such publications as shall be necessary to conform with the requirements of SEQR.

Section 3. The Agency has determined that the proposed financial assistance exceeds the sum of \$100,000.00 and therefore a public hearing on due notice was held on November 8, 2023 at 9:30 a.m., local time, in the Town of Fallsburg Court Room, 19 Railroad Plaza, South Fallsburg, New York, at which hearing comments relating to the proposed financial assistance were solicited. Said public hearing was open to the general public and public notice of the time and place of said public hearing was duly given in accordance with the applicable provisions of the General Municipal Law of the State.

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 an interest in the Land and to take a leasehold interest in the improvements and personal property constituting the Project; (ii) appoint the Company as its agent for purposes of acquiring, constructing, installing and equipping the Project, and (iii) lease the Land, improvements and personal property constituting the Project to the Company pursuant to the Lease and the Leaseback, subject to the PILOT Agreement;

- (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 Project, thereby increasing employment opportunities in the County and otherwise furthering the purposes of the Agency as set forth in the Act.

Section 5. Subject to the Company executing an Agent and Project Agreement in form and substance approved by the Executive Director, the Agency hereby authorizes the Company to proceed with the acquisition, construction, installation and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency to construct, acquire, construct, install and equip the Project 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 acquisition, construction, installation and equipping of the Project, whether or not the materials, services or supplies described below are incorporated into or become an integral part of the Project; (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with the acquisition, construction, installation and equipping of the Project; (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description in connection with the acquisition, construction, installation and equipping of the Project; 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 Project, 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 Project, all with the same powers and with the same validity as the Agency could do if acting on its own behalf. The aforesaid appointment of the Company as agent of the Agency to reconstruct and equip the Project shall expire on May 31, 2024 if the Transaction Documents have not been executed and delivered.

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 Project and that would otherwise be subject to New York State and local sales and use tax in an amount up to \$700,000, which result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed \$56,000. 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 Project, 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 Project, 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 Project, 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 Project; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; 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 Project, 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 Project. 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 Project, 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 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) the terms of the PILOT Agreement are consistent with the Agency's Uniform Tax Exemption Policy.

Section 9. The Chairperson or Executive Director 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 or Executive Director of the Agency shall approve, the execution thereof by the Chairperson or Executive Director 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 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 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
Kathleen Lara	<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 November 13, 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	[]	[]

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
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 13th day of November, 2023.

Carol Roig, Secretary

Dimifini-Fallsburg, LLC
1784 State Route 52
Liberty, New York 12754

November 1, 2023

County of Sullivan Industrial Development Agency
548 Broadway
Monticello, New York 12701
Attn: Jennifer Flad, Executive Director

Via Email (jflad@sullivanida.com)

Re: Dimifini-Fallsburg, LLC w/ County of Sullivan Industrial Development Agency

Dear Jen:

On September 1, 2006, Dimifini Group, Inc. ("Dimifini Group") and Rolling V Bus Corp. ("Rolling V") entered into a sale-leaseback transaction ("Project") relating to Town of Fallsburg Section 60, Block 1, Lot 28.3 ("Premises").

Both Dimifini Group. and Rolling V have assigned their respective rights under the IDA transaction documents to Dimifini-Fallsburg, LLC ("Dimifini-Fallsburg"). Copies of the following are attached:

- a) Assignment and Assumption of Lease, effective July 1, 2016, between Dimifini Group and Dimifini-Fallsburg, assigning Dimifini Group's rights under the Lease Agreement relating to the Premises to Dimifini-Fallsburg; and
- b) Assignment and Assumption of Lease, effective October 1, 2023, between Rolling V and Dimifini-Fallsburg, assigning Rolling V's rights under the Lease Agreement relating to the Premises to Dimifini-Fallsburg.

On behalf of Dimifini-Fallsburg, I respectfully request that the IDA transaction documents be amended and restated, effective as of November 1, 2023, so that Dimifini-Fallsburg is the IDA's counterparty.

Dimifini-Fallsburg and Rolling V entered into a Sublease effective November 1, 2023. Pursuant to the Lease Agreement related to the Premises, the IDA is required to provide consent for any such sublease. Accordingly, Rolling V requests the IDA's consent to such sublease.

Rolling V will continue to occupy the Premises and operate from the Premises.

Very truly yours,

Dimifini-Fallsburg, LLC

By: Dimifini Holding, LLC, its Sole Member



By: Philip Vallone, Sr., President

Via Email (sloughlin@crisisrisk.com)

Via Email (bgarigliano@catskills.law)

Via Email (dubanowitz@andersonkreiger.com)

cc: Suzanne Loughlin, Chairperson
Barbara A. Garigliano, Esq.
Stephanie B. Dubanowitz, Esq.

70338-001v2

ASSIGNMENT AND ASSUMPTION OF LEASE

THIS ASSIGNMENT AND ASSUMPTION OF LEASE ("Assignment") is effective this 1st day of July, 2016 (the "Effective Date"), between DIMIFINI GROUP, INC., a New York corporation with its principal offices at 5008 NYS Route 42, P.O. Box 110, South Fallsburg, New York 12779 ("Assignor") and DIMIFINI-FALLSBURG, LLC, a New York limited liability company with its principal offices at 5008 NYS Route 42, P.O. Box 110, South Fallsburg, New York 12779 ("Assignee").

WHEREAS, Assignor is currently a co-tenant under a Lease Agreement, by and among the County of Sullivan Industrial Development Agency ("Agency"), Rolling V Bus Corp. and Assignor, dated September 1, 2006, relating to certain premises located at 5008 New York State Route 42, South Fallsburg, New York 12779, being identified as Fallsburg Tax Map Section 60, Block 1, Lot 28.3, containing 3.26 acres (the "Lease"); and

WHEREAS, Assignor and Assignee have agreed to an assignment of the Assignor's rights to Assignee subject to assumption by the Assignee of Assignor's Obligations under the Lease.

NOW, THEREFORE, for valuable mutual considerations, the parties hereto agree as follows:

1. As of the Effective Date, Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and to the Lease.
2. Assignee hereby assumes, and agrees to be responsible for all obligations of Assignor under the Lease arising on or after the Effective Date ("Obligations").
3. Assignor represents that on the Effective Date hereof the Lease is in full force and effect and that there exists no other agreements affecting Assignor's rights under the Lease.
4. Assignor shall indemnify and hold harmless Assignee, its successors and assigns, from all claims, losses, liabilities and expenses (including reasonable attorneys' fees) (all of such claims, losses, etc., being hereafter called "Claims") arising from Assignor's failure to perform any Obligations accruing prior to the Effective Date; and Assignee shall indemnify and hold harmless Assignor, its successors and assigns, from all Claims arising from Assignee's failure to perform any Obligations accruing from and after the Effective Date.
5. All notices provided for by this Assignment shall be in writing, and shall be deemed to have been given on the date of delivery if personally served on the party to whom notice is to be given; or on the next business day, if sent prepaid to the party to whom notice is to be given, by overnight mail or nationally recognized overnight courier, providing evidence of receipt and properly addressed; or on the third business day after mailing if mailed to the party to whom notice shall be given by First Class, Certified mail, postage prepaid and properly addressed to the following:

If to Assignor:

Dimifini Group, Inc.
5008 NYS Route 42, P.O. Box 110
South Fallsburg, New York 12779
Attn: Philip Vallone, President

With a copy to:

Garigliano Law Offices, LLP
449 Broadway, P.O. Drawer 1069
Monticello, New York 12701
Attn: Walter F. Garigliano, Esq.

If to Assignee:

Dimifini-Fallsburg, LLC
5008 NYS Route 42, P.O. Box 110
South Fallsburg, New York 12779
Attn: Philip Vallone, Member

With a copy to:

Garigliano Law Offices, LLP
449 Broadway, P.O. Drawer 1069
Monticello, New York 12701
Attn: Walter F. Garigliano, Esq.


and/or to such other addresses and/or addressees as may be designated by notice given in accordance with the provisions of this section.

6. This Assignment shall be governed by and construed in accordance with the laws of the State of New York.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, this Assignment has been entered into as of the day and year first above written.


DIMIFINI GROUP, INC.



By: Philip Vallone, President

DIMIFINI-FALLSBURG, LLC

By: DIMIFINI HOLDING, LLC, its Sole Member



By: Philip Vallone, President

ASSIGNMENT AND ASSUMPTION OF LEASE

THIS ASSIGNMENT AND ASSUMPTION OF LEASE ("Assignment") is effective this 1st day of October, 2023 (the "Effective Date"), by and between ROLLING V BUS CORP., a New York corporation with its principal offices at 1784 State Route 52, Liberty, New York 12754 ("Assignor") and DIMIFINI-FALLSBURG, LLC, a New York limited liability company with its principal offices at 5008 NYS Route 42, P.O. Box 110, South Fallsburg, New York 12779 ("Assignee").

WHEREAS, Assignor is currently a co-tenant under a Lease Agreement, by and among the County of Sullivan Industrial Development Agency ("Agency"), Assignor and Dimifini Group, Inc., dated September 1, 2006, relating to certain premises located at 5008 New York State Route 42, South Fallsburg, New York 12779, being identified as Fallsburg Tax Map Section 60, Block 1, Lot 28.3, containing 3.26 acres (the "Lease"); and

WHEREAS, Dimifini Group, Inc. had assigned its interest in the Lease to Assignee pursuant to an Assignment and Assumption of Lease, effective July 1, 2016; and

WHEREAS, Assignor and Assignee have agreed to an assignment of the Assignor's rights to Assignee subject to assumption by the Assignee of Assignor's Obligations under the Lease.

NOW, THEREFORE, for valuable mutual considerations, the parties hereto agree as follows:

1. As of the Effective Date, Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and to the Lease.
2. Assignee hereby assumes and agrees to be responsible for all obligations of Assignor under the Lease arising on or after the Effective Date ("Obligations").
3. Assignor represents that on the Effective Date hereof the Lease is in full force and effect and that there exists no other agreements affecting Assignor's rights under the Lease.
4. Assignor shall indemnify and hold harmless Assignee, its successors and assigns, from all claims, losses, liabilities and expenses (including reasonable attorneys' fees) (all of such claims, losses, etc., being hereafter called "Claims") arising from Assignor's failure to perform any Obligations accruing prior to the Effective Date; and Assignee shall indemnify and hold harmless Assignor, its successors and assigns, from all Claims arising from Assignee's failure to perform any Obligations accruing from and after the Effective Date.
5. All notices provided for by this Assignment shall be in writing, and shall be deemed to have been given on the date of delivery if personally served on the party to whom notice is to be given; or on the date of receipt if transmitted by electronic mail to the party to whom notice is to be given; or on the next business day, if sent prepaid to the party to whom notice is to be given, by overnight mail or nationally recognized overnight courier, providing evidence of receipt and

properly addressed; or on the third business day after mailing if mailed to the party to whom notice shall be given by First Class, Certified mail, postage prepaid and properly addressed to the following:

If to Assignor:

Rolling V Bus Corp.
1784 State Route 52
Liberty, New York 12754
Attn: Philip Vallone, Sr., President

With a copy to:

Walter F. Garigliano P.C.
449 Broadway, P.O. Drawer 1069
Monticello, New York 12701
Attn: Walter F. Garigliano, Esq.

If to Assignee:

Dimifini-Fallsburg, LLC
1784 State Route 52
Liberty, New York 12754
Attn: Philip Vallone, Member

With a copy to:

Walter F. Garigliano P.C.
449 Broadway, P.O. Drawer 1069
Monticello, New York 12701
Attn: Walter F. Garigliano, Esq.

and/or to such other addresses and/or addressees as may be designated by notice given in accordance with the provisions of this section.

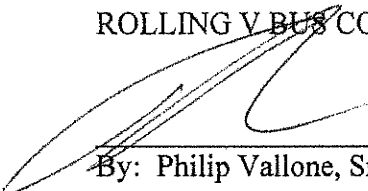
Any notice given electronically outside of normal business hours shall be deemed given on the next regular business days. The parties hereby agreed that their respective attorney is authorized to give and receive notices on their behalf.

6. This Assignment shall be governed by and construed in accordance with the laws of the State of New York.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, this Assignment has been entered into as of the day and year first above written.

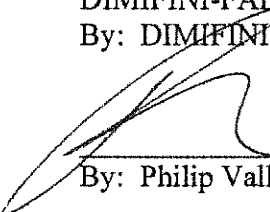
ROLLING V BUS CORP.



By: Philip Vallone, Sr., President

DIMIFINI-FALLSBURG, LLC

By: DIMIFINI HOLDING, LLC, its Sole Member



By: Philip Vallone, President

RESOLUTION

A regular meeting of the County of Sullivan Industrial Development Agency (“Agency”) was convened on November 13, 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 _____, and seconded by _____, to wit:

Resolution No. ____ - 23

***RESOLUTION AUTHORIZING ENGAGEMENT OF _____
AS SPECIAL TRANSACTION COUNSEL FOR THE DIMIFINI-
FALLSBURG, LLC PROJECT***

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 10, 2006 the Agency received an application (as amended) from Rolling V Bus Corp. (“Rolling V”) and Dimifini Group, Inc. (“Dimifini Group”) related to the (i) construction, installation and equipping of an expansion of the Companies’ existing building consisting of approximately 2,025± square feet (“Building”) situate on one (1) parcel of real estate consisting of approximately 3.26± acres to be located at 5008 Main Street in the Town of Fallsburg, County of Sullivan, in the State and identified on the Town of Fallsburg tax map as Section 60, Block 1, Lot 28.3 (“Land”) intended to be used as office and training space and related facilities an interest in which the Agency is to acquire; (ii) acquisition and installation thereon and therein of certain furniture, fixtures, machinery, equipment and tools (“Equipment”); (iii) construction of improvements to the Building, the Land and the Equipment (collectively, the Building, the Land and the Equipment are referred to as the “Facility” or the “Project”); and (iv) lease the Facility from the Agency to Rolling V and Dimifini Group; and

WHEREAS, on or about September 1, 2006, Rolling V, Dimifini Group and the Agency entered into, among other documents, a Lease Agreement (“Lease”) and a Memorandum of Lease (“Memo of Lease”); and Dimifini Group and the Agency entered into a Payment in Lieu of Tax Agreement (“PILOT” and together with the Lease and Memo of Lease, collectively, the “2006 Transaction Documents”).

WHEREAS, by Assignment and Assumption of Lease, effective as of July 1, 2016, Dimifini Group assigned its rights under the Lease to Dimifini-Fallsburg, LLC (“Dimifini-Fallsburg”); and

WHEREAS, by Assignment and Assumption of Lease, effective as of October 1, 2023, Rolling V assigned its rights under the Lease to Dimifini-Fallsburg; and

WHEREAS, by letter dated November 1, 2023, Dimifini-Fallsburg requested the Agency amend and restate the 2006 Transaction Documents so that Dimifini-Fallsburg will be the Agency’s counterparty.

WHEREAS, WALTER F. GARIGLIANO P.C., counsel to the Agency, has on prior occasions represented Dimifini-Fallsburg and has disqualified himself from providing legal services to the Agency in connection with the Project; and

WHEREAS, the Agency desires to appoint special transaction counsel to represent the Agency in connection with Dimifini-Fallsburg’s pending request to amend and restate the 2006 Transaction Documents.

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

Section 1. The Agency hereby authorizes the Executive Director to engage the firm of _____ as special transaction counsel in connection with Dimifini-Fallsburg’s pending request to amend and restate the 2006 Transaction Documents.

Section 2. 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, documents, and 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 on behalf of the Agency desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all the terms, covenants and provisions of the documents for and on behalf of the Agency.

Section 3. 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
Kathleen Lara	<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 November 13, 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	[]	[]

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
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 13th day of November, 2023.

Carol Roig, Secretary



Via E-mail only

November 6, 2023

Walter Garigliano, Esq.
Garigliano Law Offices, LLP
449 Broadway, P.O. Box 1069
Monticello, New York 12701

Jennifer M. Flad, Executive Director
County of Sullivan Industrial Development Agency
548 Broadway
Monticello, New York 12701

RE: Payment in Lieu of Taxation Agreement between County of Sullivan Industrial Development Agency and Empire Resorts Real Estate II, LLC dated March 1, 2018 And First Amendment Payment in Lieu of Taxation Agreement dated March 31, 2022 (the "Alder Amended PILOT Agreement") and Payment in Lieu of Taxation Agreement between County of Sullivan Industrial Development Agency and Empire Resorts Real Estate I, LLC dated December 22, 2016 (the "Golf PILOT Agreement")

Dear Mr. Garigliano and Ms. Flad:

Please accept this letter on behalf of Empire Resorts Real Estate I, LLC and Empire Resorts Real Estate II, LLC as a formal request to extend the above referenced Alder Amended PILOT Agreement and the Golf PILOT Agreement. As you know, our "campus" was shut down by Order of the Governor in March, 2020. Progress on construction of The Monster Golf Course was also suspended. In late 2020, The Alder was able to re-open with the following limitations: 1) 25% occupancy limit; 2) early closure time of 10:00 p.m.; and 3) a ban on indoor dining from December, 2020 to February, 2021. In May, 2021 hotels and restaurants were permitted to return to 50% occupancy. On June 15, 2021 the Governor lifted all restrictions. At that time we began the process of recalling the balance of our employees and attempting to get back to normal. At that time and to this day, amenities within The Alder remain unable to open on a full schedule due to supply chain issues, labor shortages, etc. The Monster Golf Course was finally completed and opened to the public on August 29, 2023.

For the above reasons, Empire Resorts Real Estate I, LLC and Empire Resorts Real Estate II, LLC is respectfully requesting a two (2) year extension of the Alder Amended PILOT Agreement as well as the Golf PILOT Agreement. Should you have any questions or comments, please do not hesitate to contact me at 347-502-3565. Thank you for your consideration.

Very truly yours,

Karen M. Cho

Karen M. Cho
General Counsel New York State

cc: Robert DeSalvio, President
Meghan Taylor, VP of Government Affairs and
Public Relations

RESOLUTION

A regular meeting of the County of Sullivan Industrial Development Agency (“Agency”) was convened on November 13, 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 _____, and seconded by _____, to wit:

Resolution No. __ - 23

RESOLUTION AUTHORIZING AN AMENDMENT OF THE EMPIRE RESORTS REAL ESTATE I, LLC (“ERREI”) PAYMENT IN LIEU OF TAXATION AGREEMENT TO EXTEND THE PILOT BENEFIT PERIOD BY TWO (2) YEARS

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, EPT Concord II, LLC (“EPT II”) for itself and on behalf of an entity or entities to be formed (collectively the, “EPT Entities”) submitted an application (“EPT Application”) to the Agency on February 12, 2013, requesting that the Agency undertake a certain project in one or more phases, (the “Master Development Project”) for the benefit of the EPT Entities consisting of: (i) the acquisition by the Agency of a leasehold interest or other interest in approximately seventy-one (71) parcels of land containing in the aggregate approximately 1,735 acres within the Town of Thompson, Sullivan County, New York (the “EPT Land”), (ii) the construction and equipping on the EPT Land of a master planned destination resort community to include (a) an 18-hole golf course with clubhouse and maintenance facilities, (b) a casino resort to include a casino, hotel, harness horse racetrack, grandstand/showroom, simulcast facility, banquet event center, restaurants and related facilities, (c) hotels, (d) a waterpark, (e) a recreational vehicle park, (f) an entertainment village with a cinema and supporting retail facilities, (g) a residential village containing a mix of unit types including condominiums, apartments, townhouses and detached single-family homes, a civic center and an active adult residential community, all or a portion of which will be connected, via a multi-use trail system, to open space (collectively, the “EPT Improvements”), and (iii) the acquisition in and around the EPT Land and the EPT Improvements of certain items of equipment and other tangible personal property (the “EPT Equipment”, and collectively with the EPT Land and the EPT Improvements, the “EPT Project”); and

WHEREAS, on October 21, 2013, the Agency and EPT II entered into a Master Development and Agent Agreement authorizing the EPT Entities to proceed with certain work limited in scope to soil erosion and sediment control, clearing and grubbing, earthwork, construction of new roads and improvements and enhancements to existing roads, constructed wetlands, landscaping, sanitary sewer, water, storm sewer, electric power, telephone service, cable tv, internet connectivity, demolition of existing structures, and all other related facility, equipment, improvements and infrastructure costs as set forth in the EPT Application together with a Lease to Agency, Leaseback to Company, Payment in Lieu of Tax Agreement and related documents (collectively the, “EPT Transaction Documents”); and

WHEREAS, on or about December 31, 2013, with the consent of the Agency, EPT II transferred a portion of the EPT Land to EPR Concord II, L.P. (“EPR II”); and

WHEREAS, the EPT Entities and ERREI, a wholly owned subsidiary of Montreign Operating Company, LLC (“MOC”), entered into an agreement whereby ERREI leased a portion of the EPT Land from the EPT Entities effective only if MOC a wholly owned subsidiary of Empire Resorts, Inc., was selected by the New York State Gaming Facility Location Board to apply to the New York State Gaming Commission (“NYSGC”) for the award of a license to operate a Gaming Facility (as hereinafter defined); and

WHEREAS, on December 21, 2015, the NYSGC awarded a Gaming Facility License (the “Gaming Facility License”) to MOC; and

WHEREAS, subsequent to the award of the Gaming Facility License, in December 2015, ERREI and EPR II (and its successors or related entities) entered into agreements wherein it was agreed that ERREI will be the entity developing the Monster Golf Course on the Golf Project Land; and

WHEREAS, on or about March 25, 2016, ERREI presented an application (“Golf Project Application”) to the Agency requesting that the Agency consider undertaking a project consisting of the: (i) acquisition, construction, installation and equipping of a new eighteen (18) hole golf course (“Golf Course”), an approximately 14,000± square foot clubhouse, an approximately 12,800± square foot maintenance building and related structures (“Buildings”) situate on eleven (11) parcels of real estate consisting of approximately 237± acres located along Thompsonville Road and Chalet Road, Town of Thompson (“Town”), County of Sullivan (“County”), State and identified on the Town tax map as all or a portion of tax map numbers (that existed in 2016) 15.-1-13, 15.-1-14.1, 15.-1-14.2, 15.-1-15, 15.-1-16, 15.-1-17, 15.-1-18, 15.-1-50, 23.-1-52.2, 23.-1-53.2, and 23.-1-54.5 (“Golf Project Land”); (ii) acquisition, construction and equipping of the Golf Course and Buildings; (iii) acquisition, construction and installation thereon and therein of certain furniture, fixtures, machinery, equipment and tools (“Golf Project Equipment”); (iv) construction of improvements to the Golf Course, the Buildings, the Golf Project Land and the Golf Project Equipment (collectively, the Golf Course, the Buildings, the Golf Project Land and the Golf Project Equipment are referred to as the “Golf Project”); and (v) lease of the Golf Project Land from the Agency to ERREI; and

WHEREAS, pursuant to General Municipal Law Section 859-a, on Monday, June 13, 2016 at 10:30 a.m., local time, at the Legislative Hearing Room, Sullivan County Government Center, 100 North Street, Monticello, New York, the Agency held a public hearing with respect to the Golf Project and the proposed financial assistance being contemplated by the Agency (the “Golf Project Public Hearing”) whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. A summary of the Minutes of the Golf Project Public Hearing together with the Notice of Golf Project Public Hearing published and forwarded to the affected taxing jurisdictions ten (10) days prior to said Golf Project Public Hearing were attached to Resolution No. 21-16; 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, to aid the Agency in determining whether the Golf Project may have significant adverse effects on the environment, ERREI presented a Full Environmental Assessment Form (“EAF”) and supporting SEQR documents, including a Technical Memorandum with Appendices, to the Agency with respect to the Golf Project for its review; and

WHEREAS, the Agency determined that the Golf Project is an Unlisted Action under SEQR; and

WHEREAS, the Agency gave due consideration to the Golf Project Application of ERREI and to representations by ERREI that the proposed financial assistance is an inducement to ERREI to undertake the Golf Project; and

WHEREAS, prior to adoption of Resolution No. 21-16 on June 20, 2016, the Agency considered the following matters as more fully set forth in its then in effect Uniform Tax Exemption Policies (“UTEPs”):

- 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 ERREI if the Golf Project does not fulfill the purposes for which the exemption was granted;
- D. Impact of the Golf 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 Golf Project;
- F. Demonstrated public support for the Golf Project;
- G. Likelihood of accomplishing the Golf Project in a timely fashion;
- H. Environmental impact;
- I. Extent to which the Golf Project will require additional services including, but not limited to educational, police, transportation, EMS and fire;
- J. Extent to which the Golf Project will provide additional revenues; and
- K. Extent to which the Golf 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 Golf Project fell within the Agency's "Destination Resort Program"^a under the Agency's then in effect UTEP; and

WHEREAS, as further set forth in Resolution No. 21-16 on June 20, 2016, the Agency determined that, based on representations made by the ERREI to the Agency, a review of the EAF and supporting SEQR documents, including a Technical Memorandum with Appendices, the Golf Project would result in no major impacts and therefore, is one which may not cause significant damage to the environment and will not have a "significant effect on the environment" as such quoted term is defined in Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the New York State Department of Environmental Conservation and that no "environmental impact statement" as such quoted term is defined in SEQR need be prepared for this action, and that such determination constituted a negative declaration of environmental significance for purposes of SEQR and adopted a Negative Declaration of Environmental Significance.

WHEREAS, the Agency desired to encourage ERREI 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 Golf Project; and

WHEREAS, the Executive Director negotiated the Golf Project Transaction Documents with ERREI; and

WHEREAS, on or about December 22, 2016, the Agency (i) designated ERREI as its agent for the purpose of acquiring, constructing, installing and equipping the Golf Project; (ii) negotiated and entered into an Agent Agreement, a Lease, a Leaseback and a PILOT Agreement with ERREI

^a The Destination Resort Program was eliminated by the Agency on March 14, 2022 by Resolution No. 10-22.

(collectively, the “Golf Project Transaction Documents”); (iii) took a leasehold interest in the Golf Project Land, the improvements and personal property thereon which constitute the Golf Project; and (iv) provided financial assistance to ERREI in the form of (a) sales tax exemption for purchases related to the acquisition, construction, installation and equipping of the Golf Project; (b) a real property tax abatement on increased value resulting from improvements to the Golf Project Land through a PILOT Agreement; and (c) a mortgage recording tax exemption for financing related to the Golf Project; and

WHEREAS, on or about December 22, 2016, the Agency and the EPT Entities entered into a Third Omnibus Amendment of the EPT Transaction Documents to amend the project description to remove the Golf Project Land from the project description and reduce the TVSP as established in Section 1.3(a) of the EPT PILOT Agreement; and

WHEREAS, by letter dated March 9, 2022, ERREI requested the Agency amend the Golf Project Transaction Documents to reflect proposed amendments to the Golf Project; and

WHEREAS, by letter dated March 23, 2022, ERREI requested the Agency amend the Golf Project PILOT Agreement so the sixteen- (16) year period of benefits starts the year following completion of the Golf Project; and

WHEREAS, to aid the Agency in determining whether proposed amendments to the Golf Project may have significant adverse effects on the environment, the Agency reviewed the EAF and supporting SEQR documents, including a Technical Memorandum with Appendices, to the Agency with respect to the Golf Project for its review; and

WHEREAS, the Agency determined that based on representations made by ERREI, the proposed amendments to the Golf Project will result in a reduction of impacts and therefore the Golf Project remains an Unlisted Action under SEQR; and

WHEREAS, the Agency determined that, based on representations made by ERREI to the Agency, a review of the EAF and supporting SEQR documents, including a Technical Memorandum with Appendices, the Golf Project would result in no major impacts and therefore, is one which may not cause significant damage to the environment and will not have a “significant effect on the environment” as such quoted term is defined in Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the New York State Department of Environmental Conservation and that no “environmental impact statement” as such quoted term is defined in SEQR need be prepared for this action, and that such determination constituted a negative declaration of environmental significance for purposes of SEQR and ratifies the previously adopted Negative Declaration of Environmental Significance; and

WHEREAS, on or about March 31, 2022, the Agency and ERREI entered into an (i) Amended and Restated Agent and Project Agreement; (ii) Omnibus Amendment to Project Documents and (iii) First Amended PILOT Agreement to amend the Golf Project Transaction Documents as follows:

- A. Modify the description of the Golf Project to update the reference of “an approximately 14,000± square foot clubhouse” to “a comfort station including restrooms and light snacks”;
- B. Increase the total budget from \$17,600,000 to \$33,700,000;
- C. Increase the total authorized exempt purchases by an additional \$12,125,000;
- D. Increase the authorized sales tax exemption by an additional \$970,000; and
- E. Extend the date for completion to June 1, 2023.
- F. Amend the PILOT Agreement so the sixteen- (16) year period of benefits starts the year following completion of the Golf Project; and

WHEREAS, by letter from Karen M. Cho, General Counsel, dated June 7, 2023, MOC requested a three (3) year extension of the PILOT benefit period; and

WHEREAS, by Resolution 39-23, duly adopted by the Agency on October 16, 2023, the Agency authorized extension of the MOC PILOT for the Resorts World Catskills (“RWC”) casino for a period of two (2) years based on the findings adopted by Resolution 39-23; and

WHEREAS, the Employment Goals for the ERREI’s project are based on the employment obligations of MOC; and

WHEREAS, by letter dated November 6, 2023, Karen M. Cho, General Counsel to RWC, requested a two (2) year extension of ERREI’s PILOT.

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

Section 1. In reliance on the findings as set forth in Resolution No. 39-23 and since employment goals are based on the aggregate reporting of Employment Obligations as contemplated by the MOC PILOT, the Agency is willing to extend ERREI’s PILOT benefit period for a period of two (2) years.

Section 2. The extension of the PILOT benefit period will necessarily require an extension of the Lease to Agency and Leaseback to Company by two (2) years.

Section 3. The Chairperson or Executive Director, either acting individually, is hereby authorized to execute a Second Amended Payment in Lieu of Taxation Agreement; an Amended and Restated Lease to Agency together with a recording memorandum related thereto; an Amended and Restated Leaseback to Company together with a recording memorandum related thereto; and any other additional documents or instruments necessary to implement the intent of these resolutions.

Section 4. The foregoing are conditioned on compliance by ERREI of each of the following:

- 1) ERREI shall pay the Agency an administrative fee in the amount of One Thousand and 00/100 (\$1,000.00) Dollars to defray the Agency's cost of implementing these resolutions and notifying impacted Taxing Jurisdictions.
- 2) ERREI shall reimburse the Agency or directly pay all professional fees of the Agency incurred to implement the extension of the PILOT benefit period.

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 resolutions 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
Kathleen Lara	<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:

- 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 November 13, 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 13th day of November, 2023.

Carol Roig, Secretary

RESOLUTION

A regular meeting of the County of Sullivan Industrial Development Agency (“Agency”) was convened on November 13, 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 _____, and seconded by _____, to wit:

Resolution No. __ - 23

RESOLUTION AUTHORIZING AN AMENDMENT OF THE EMPIRE RESORTS REAL ESTATE II, LLC (“ERREII”) PAYMENT IN LIEU OF TAXATION AGREEMENT TO EXTEND THE PILOT BENEFIT PERIOD BY TWO (2) YEARS

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, EPT Concord II, LLC (“EPT II”) for itself and on behalf of an entity or entities to be formed (collectively the, “EPT Entities”) submitted an application (“EPT Application”) to the Agency on February 12, 2013, requesting that the Agency undertake a certain project in one or more phases, (the “Master Development Project”) for the benefit of the EPT Entities consisting of: (i) the acquisition by the Agency of a leasehold interest or other interest in approximately seventy-one (71) parcels of land containing in the aggregate approximately 1,735 acres within the Town of Thompson, Sullivan County, New York (the “EPT Land”), (ii) the construction and equipping on the EPT Land of a master planned destination resort community to include (a) an 18-hole golf course with clubhouse and maintenance facilities, (b) a casino resort to include a casino, hotel, harness horse racetrack, grandstand/showroom, simulcast facility, banquet event center, restaurants and related facilities, (c) hotels, (d) a waterpark, (e) a recreational vehicle park, (f) an entertainment village with a cinema and supporting retail facilities, (g) a residential village containing a mix of unit types including condominiums, apartments, townhouses and detached single-family homes, a civic center and an active adult residential community, all or a portion of which will be connected, via a multi-use trail system, to open space (collectively, the “EPT Improvements”), and (iii) the acquisition in and around the EPT Land and the EPT Improvements of certain items of equipment and other tangible personal property (the “EPT Equipment”, and collectively with the EPT Land and the EPT Improvements, the “EPT Project”); and

WHEREAS, on October 21, 2013, the Agency and EPT II entered into a Master Development and Agent Agreement authorizing the EPT Entities to proceed with certain work limited in scope to soil erosion and sediment control, clearing and grubbing, earthwork, construction of new roads and improvements and enhancements to existing roads, constructed wetlands, landscaping, sanitary sewer, water, storm sewer, electric power, telephone service, cable tv, internet connectivity, demolition of existing structures, and all other related facility, equipment, improvements and infrastructure costs as set forth in the EPT Application together with a Lease to Agency, Leaseback to Company, Payment in Lieu of Tax Agreement and related documents (collectively the, “EPT Transaction Documents”); and

WHEREAS, on or about December 31, 2013, with the consent of the Agency, EPT II transferred a portion of the EPT Land to EPR Concord II, L.P. (“EPR II”); and

WHEREAS, the EPT Entities and ERREII, a wholly owned subsidiary of Montreign Operating Company, LLC (“MOC”), entered into an agreement whereby ERREII leased a portion of the EPT Land from the EPT Entities effective only if MOC was selected by the New York State Gaming Facility Location Board to apply to the New York State Gaming Commission (“NYSGC”) for the award of a license to operate a Gaming Facility; and

WHEREAS, on December 21, 2015, the NYSGC awarded a Gaming Facility License (the “Gaming Facility License”) to MOC; and

WHEREAS, subsequent to the award of the Gaming Facility License, in December 2015, ERREII and EPR II entered into agreements wherein it was agreed that ERREII will be the entity developing an entertainment village hotel; and

WHEREAS, on or about August 17, 2017, ERREII presented an application (“EV Hotel Project 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, installation and equipping of a an approximately 124,000 square foot six-story building to include up to 162 rooms, mixed-use spaces including a coffee shop, a restaurant, a night club, and retail, and parking for up to 289 cars (the “EV Hotel”), situate on one (1) parcel of real estate consisting of approximately 22 acres located along Joyland Road and Thompsonville Road, in the Town, County, State and identified on the Town tax map as all or a portion of tax map numbers 23.-1-54.6 (“EV Hotel Project Land”); (ii) acquisition, construction and equipping of the EV Hotel Project; (iii) acquisition, construction and installation thereon and therein of certain furniture, fixtures, machinery, equipment and tools (“EV Hotel Project Equipment”); (iv) construction of improvements to the EV Hotel, the EV Hotel Project Land and the EV Hotel Project Equipment (collectively, the EV Hotel, the EV Hotel Project Land and the EV Hotel Project Equipment are referred to as the “EV Hotel Project”); and (v) lease of the EV Hotel Project from the Agency to ERREII; and

WHEREAS, pursuant to General Municipal Law Section 859-a, on Wednesday, August 23, 2017 at 10:30 a.m., local time, at the Legislative Hearing Room, Sullivan County Government Center, 100 North Street, Monticello, New York, the Agency held a public hearing with respect to the EV Hotel Project and the proposed financial assistance being contemplated by the Agency (the “EV Hotel Project Public Hearing”) whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. A summary of the Minutes of the EV Hotel Project Public Hearing together with the Notice of EV Hotel Project Public Hearing published and forwarded to the affected taxing jurisdictions ten (10) days prior to said EV Hotel Project Public Hearing were attached to Resolution No. 40-17; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by SEQR, the Town of Thompson Planning Board (“Town Planning Board”), acted as Lead Agency; and

WHEREAS, ERREII obtained the necessary environmental and land use approvals for the EV Hotel Project. Specifically, on May 24, 2017, the Town Planning Board issued its Negative Declaration of Environmental Significance pursuant to SEQRA for the EV Hotel Project. Subsequently, on May 24, 2017, the Town Planning Board adopted a resolution independently finding that ERREII had complied with SEQRA and granting the Final Site Development Plan Approval for the EV Hotel Project; and

WHEREAS, the Agency gave due consideration to the EV Hotel Project Application of ERREII and to representations by ERREII that the proposed financial assistance is an inducement to ERREII to undertake the EV Hotel Project; and

WHEREAS, prior to adoption of Resolution No. 40-17 on August 23, 2017, the Agency considered the following matters as more fully set forth in its then in effect UTEPs:

- 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 ERREII if the EV Hotel Project does not fulfill the purposes for which the exemption was granted;
- D. Impact of EV Hotel 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 EV Hotel Project;
- F. Demonstrated public support for the EV Hotel Project;
- G. Likelihood of accomplishing the EV Hotel Project in a timely fashion;
- H. Environmental impact;
- I. Extent to which the EV Hotel Project will require additional services including, but not limited to educational, police, transportation, EMS and fire;
- J. Extent to which the EV Hotel Project will provide additional revenues; and
- K. Extent to which the EV Hotel 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 EV Hotel Project fell within the Agency’s “Destination Resort Program^a” under the Agency’s then in effect UTEP; and

WHEREAS, the Agency desired to encourage ERREII 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 EV Hotel Project; and

WHEREAS, the Agency’s Executive Director negotiated the EV Hotel Project Transaction Documents with ERREII; and

WHEREAS, on or about March 1, 2018, the Agency (i) designated ERREII as its agent for the purpose of acquiring, constructing, installing and equipping the EV Hotel Project; (ii) negotiated and entered into an Agent Agreement, a Lease, a Leaseback and a PILOT Agreement with ERREII (collectively, the “EV Hotel Project Transaction Documents”); (iii) took a leasehold interest in the EV Hotel Project Land, the improvements and personal property thereon which constitute the EV Hotel Project; and (iv) provide financial assistance to ERREII in the form of (a) sales tax exemption for purchases related to the acquisition, construction, installation and equipping of the EV Hotel Project; (b) a real property tax abatement on increased value resulting from improvements to the EV Hotel Project Land through a PILOT Agreement; and (c) a mortgage recording tax exemption for financing related to the EV Hotel Project; and

WHEREAS, on or about March 1, 2018, the Agency and the EPT Entities entered into a Fifth Omnibus Amendment of the EPT Transaction Documents to amend the project description to remove the EV Hotel Project Land from the project description and reduce the TVSP as established in Section 1.3(a) of the EPT PILOT Agreement; and

^a The Destination Resort Program was eliminated by the Agency on March 14, 2022 by Resolution No. 10-22.

WHEREAS, by letter dated March 9, 2022, ERREII requested the Agency amend the EV Hotel Project Transaction Documents to reflect proposed amendments to the EV Hotel Project; and

WHEREAS, ERREII proposed to amend the EV Hotel project to construct a golf club house inside The Alder Hotel, including locker rooms, a pro shop and offices; and

WHEREAS, based on representations made by ERREII to the Agency, a review of the short-form EAF and supporting SEQR documents, the Agency finds that (a) pursuant to 6 NYCRR Section 617.5(c)(1), (2), and (9), the EV Hotel Project is a “Type II action”; and (b) therefore, the Agency hereby determines that no environmental impact statement or any other determination or procedure is required under Article 8 of the Environmental Conservation Law; and

WHEREAS, on or about March 31, 2022, the Agency and ERREII entered into an (i) First Amendment to Agent and Project Agreement; (ii) Amended and Restated Agent and Project Agreement; (iii) Omnibus Amendment to Project Documents and (iv) First Amended PILOT Agreement to amend the EV Hotel Project Transaction Documents as follows:

- A. Modify the description of the EV Hotel Project to include construction of a golf club house inside The Alder Hotel, including locker rooms, a pro shop and offices;
- B. Increase the total budget by \$300,000;
- C. Increase the total authorized exempt purchases by an additional \$250,000;
- D. Increase the sales tax exemption by an additional \$20,000;
- E. Extend the date for completion to June 1, 2023; and
- F. Amend the PILOT Agreement governing the EV Hotel Project to increase the TVSP for periods on and after January 1, 2025; and

WHEREAS, by letter from Karen M. Cho, General Counsel, dated June 7, 2023, MOC requested a three (3) year extension of the PILOT benefit period; and

WHEREAS, by Resolution 39-23, duly adopted by the Agency on October 16, 2023, the Agency authorized extension of the MOC PILOT for the Resorts World Catskills (“RWC”) casino for a period of two (2) years based on the findings adopted by Resolution 39-23; and

WHEREAS, the Employment Goals for ERREII’s project are based on the employment obligations of MOC; and

WHEREAS, by letter dated November 6, 2023, Karen M. Cho, General Counsel to RWC, requested a two (2) year extension of ERREII’s PILOT.

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

Section 1. In reliance on the findings as set forth in Resolution No. 39-23 and since employment goals are based on the aggregate reporting of Employment Obligations as contemplated by the MOC PILOT, the Agency is willing to extend ERREII's PILOT benefit period for a period of two (2) years.

Section 2. The extension of the PILOT benefit period will necessarily require an extension of the Lease to Agency and Leaseback to Company by two (2) years.

Section 3. The Chairperson or Executive Director, either acting individually, is hereby authorized to execute a Second Amended Payment in Lieu of Taxation Agreement; an Amended and Restated Lease to Agency together with a recording memorandum related thereto; an Amended and Restated Leaseback to Company together with a recording memorandum related thereto; and any other additional documents or instruments necessary to implement the intent of these resolutions.

Section 4. The foregoing are conditioned on compliance by ERREII of each of the following:

- 1) ERREII shall pay the Agency an administrative fee in the amount of One Thousand and 00/100 (\$1,000.00) Dollars to defray the Agency's cost of implementing these resolutions and notifying impacted Taxing Jurisdictions.
- 2) ERREII shall reimburse the Agency or directly pay all professional fees of the Agency incurred to implement the extension of the PILOT benefit period.

Section 6. 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 7. These resolutions shall take effect immediately.

The question of the adoption of the foregoing resolutions 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
Kathleen Lara	<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 November 13, 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	[]	[]

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
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 13th day of November, 2023.

Carol Roig, Secretary