

AUTHORIZING RESOLUTION

At a meeting of the Herkimer County Industrial Development Agency, Herkimer County, New York (the "Agency"), held at 420 E. German Street, Herkimer, New York on the 27th day of August, 2019 at 8:00 a.m., the following members of the Agency were:

Present: Vincent J. Bono, David Chlus, Cory Albrecht, Ann Gaworecki,
Michael Werenczak,

Absent: Cate Ricci, John Scarano

Also Present: John Piseck, Stacey Holleran, Victoria Adams

After the meeting had been duly called to order, the Chairman announced that the purpose of the meeting was to consider and take action on certain matters pertaining to Old Forge Properties, Inc., d/b/a Enchanted Forest Water Safari (the "Company").

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

AYE	NAY	ABSTAINED
*ALL	*NONE	*NONE

RESOLUTION AUTHORIZING THE AGENCY TO EXECUTE ALL RELEVANT CLOSING DOCUMENTS WITH RESPECT TO THE ACQUISITION OF AN INTEREST IN THE REAL PROPERTY SITUATE IN THE TOWN OF OLD FORGE, COUNTY OF HERKIMER AND STATE OF NEW YORK AND THE PERSONAL PROPERTY TO BE ACQUIRED AND LOCATED THEREAT (the "Facility") THROUGH LEASE AGREEMENT, LEASING SAID FACILITY BACK TO THE COMPANY THROUGH SALES AND MORTGAGE TAX EXEMPTIONS; TO ADDRESS ENVIRONMENTAL ISSUES AND TO PROVIDE FOR INDEMNIFICATION OF THE AGENCY ON SUCH ISSUES RELATING TO THE PROJECT THROUGH THE EXECUTION OF AN ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT WITH THE COMPANY (the "ECIA"); TO ENTER INTO A RECAPTURE AGREEMENT; TO ENTER INTO A PAYMENT IN LIEU OF TAX AGREEMENT; AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE PROJECT.

WHEREAS, Old Forge Properties, Inc., d/b/a Enchanted Forest Water Safari, on behalf of itself and/or the principals of Old Forge Properties, Inc. (the "Company") has applied to the Herkimer County Industrial Development Agency (the "Agency") to enter into a transaction relating to the acquisition, construction and equipping of a Recreation and Tourism Destination Facility, including waterslides, water pumps and filtration systems on a parcel of land located at 3183 State Route 28, Old Forge, New York 13420, Herkimer County (the "Land"), and the acquisition and installation of equipment in the Improvements, all to be used by the Company in connection with providing a complete and fully operational recreation facility in support of Old Forge Properties, Inc. (the Land, Improvements and Equipment) are referred to collectively as the "Facility" and the construction and equipping of the Improvements is referred to as (the "Project"); and

WHEREAS, the Company will lease the Facility to the Agency, pursuant to Article 18-A of the General Municipal Law of the State of New York, and Chapter 372 of the Laws on 1970 of the State of New York, as may be amended from time to time (collectively the "Act") and the Agency will lease the Facility back to the Company pursuant to a Leaseback Agreement (the "Leaseback Agreement"); and

WHEREAS, the Company will construct, renovate and equip the Project; and

WHEREAS, the Company will construct, renovate and equip a Recreation and Tourism Destination Facility under the Act; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Agency is authorized under its Uniform Tax Exemption Policy to provide for financial assistance to the Project; and

WHEREAS, representations made by the Company in its Application for Financial Assistance support the finding that the Project will promote employment opportunities and prevent economic deterioration in the area served by the Agency; and

WHEREAS, based upon recommendation made by the Company in its Application, the value of financial assistance is described as follows:

Sales and Use Tax exemptions estimated at \$235,125.00 but shall not exceed \$235,125.00 in aggregate;

Mortgage Recording Tax not to exceed \$20,000.00; and

Real Property Tax Abatement is estimated at \$13,000.00.

WHEREAS, prior to the closing of a lease-leaseback transaction, and the granting of any tax benefits, a public hearing (the "Hearing") was held so that all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency, or the location or nature of the Facility, can be heard; and

WHEREAS, notice of the Hearing was given prior to the closing of a lease-leaseback transaction, and the granting of any tax benefits, and such notice (together with proof of publication) was in the form annexed hereto as **Exhibit A**; and

WHEREAS, the minutes of the Hearing are or will be annexed hereto as **Exhibit B**; and

WHEREAS, the Agency has given due consideration to the operation of a retail facility and the economic conditions of the area in which the Project is situated; and

WHEREAS, the Agency has given due consideration to the application of the Company and to representations by the Company that the proposed lease-leaseback transaction is either an inducement to the Company to maintain and expand the Facility in the County or is necessary to maintain the competitive position of the Company in its industry; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the “SEQR Act” or “SEQRA”), the Agency constitutes a “State Agency”; and

WHEREAS, to aid the Agency in determining whether the Facility may have a significant effect upon the environment, the Company by virtue of its activities in renovating, reconstructing and equipping the Project shall submit, as a condition to closing, that SEQR review is not required, or in the alternative, the Environmental Assessment Form and related documents (Questionnaire) with respect to the Facility, a copy of which will be placed on file as the office of the Agency; and

WHEREAS, prior to the granting of any tax benefits, the Agency will complete its environmental review (if applicable) and make determinations for purposes of SEQRA.

Section 1. The Agency hereby finds and determines:

- (a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes of the Act and to exercise all powers granted to it under the Act; and
- (b) The Facility constitutes a “project,” such as that term is defined in the Act; and
- (c) The acquisition, construction, equipping and financing of the Facility, and the leasing of the Facility to the Company will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Herkimer County and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and
- (d) The acquisition, construction and equipping of the Facility is reasonably necessary to induce the Company to maintain and expand its business operations in the State of New York; and
- (e) Based upon representations of the Company, the Facility conforms with the local zoning laws and planning regulations of Herkimer County and all regional and local use plans for the area in which the Facility is located; and

- (f) It is desirable and in the public interest for the Agency to acquire a leasehold interest in the Facility and lease the Facility back to the Company; and
- (g) The Lease is an effective instrument whereby the Company conveys a leasehold interest to the Agency; and
- (h) The Leaseback Agreement is an effective instrument whereby the Company leases the Facility from the Agency; and

Section 2. In consequence of the foregoing, and subject to the receipt and approval by the Agency of pre-closing documents deemed reasonably necessary by counsel to the Agency, the Agency hereby determines to acquire a leasehold interest in the Facility from the Company and to lease the Facility back to the Company and to execute and deliver the Lease Agreement, the Leaseback Agreement and memoranda thereof, the Environmental Compliance and Indemnification Agreement, the PILOT Agreement, the Recapture Agreement and all related documents (collectively the Closing Documents).

Section 3. The form and substance of the Closing Documents (each in substantially the forms presented to the Agency and which, prior to the execution and delivery thereof, may be redated) are hereby approved.

Section 4.

- (a) The Chairman, Vice Chairman, Secretary or any member of the Agency and the Executive Director, John J. Piseck, are hereby authorized, on behalf of the Agency, to execute and deliver the Closing Documents, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, Vice Chairman, Secretary, Executive Director or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution. The execution thereof by the Chairman, Vice Chairman, Executive Director or any member of the Agency shall constitute conclusive evidence of such approval.
- (b) The Chairman, Vice Chairman, Secretary or member of the Agency and the Executive Director, John J. Piseck, are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

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 or provided for by the provisions of the Closing Documents, and to execute and deliver all such additional certificates, instruments and documents, 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 resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Closing Documents binding upon the Agency.

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

I, Stacey Holleran, the undersigned Assistant Secretary of the Herkimer County Industrial Development Agency, DO HEREBY CERTIFY:

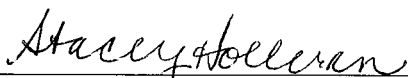
That I have compared the annexed extract of the minutes of the meeting of the Herkimer County Industrial Development Agency (the "Agency"), including the resolutions contained therein, held on the 27th day of August, 2019 with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Closing Documents contained in this transcript of proceedings are each in substantially the substance presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, (ii) pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections, (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 as of this 27th day of August, 2019.

HERKIMER COUNTY INDUSTRIAL
DEVELOPMENT AGENCY



Stacey Holleran, Assistant Secretary

EXHIBIT A

EXHIBIT B

PUBLIC HEARING MINUTES

**Herkimer County Industrial Development Agency
July 22, 2019 @ 11:00 AM
Town Hall, Town of Webb, 3140 State Route 28, Old Forge, NY
Re: Old Forge Properties dba Enchanted Forest Water Safari**

John J. Piseck, Jr. introduced himself as the Executive Director of the Herkimer County Industrial Development Agency and opened the public hearing at 11:00 AM.

Mr. Piseck appointed Stacey Holleran to record the minutes of the hearing.

Mr. Piseck stated that on July 10, 2019 a Public Hearing Notice was published in the legal section of the Times Telegram as well as being posted on the Agency website. The Agency also provided a copy to the CEO of all affected taxing jurisdictions. The following is the published notice:

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York State General Municipal Law, will be held by the Herkimer County Industrial Development Agency (the "Agency") on the 22nd day of July 2019, at 11:00 AM, local time at the Town Hall, Town of Webb, 3140 State Route 28, Old Forge, Herkimer County, New York, in connection with the following matter:

WHEREAS, OLD FORGE PROPERTIES, INC. D/B/A ENCHANTED FOREST WATER SAFARI (the "Company") has presented an application (the "Application") to the Agency, copies of which are on file at the office of the Agency, requesting that the Agency consider undertaking; (i) to provide assistance through sales tax and mortgage tax incentives for the constructing, equipping, and financing of the above described project Facility and real property tax relief in the form of a Payment in Lieu of Tax Agreement (the "Assistance"), (ii) to acquire, construct, equip, and finance the Facility or to cause the Facility to be constructed, equipped, and financed; and (iii) to lease (with an obligation to purchase) or sell the Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the Facility will consist of the acquisition, construction, and equipping of three new water slides located in the Town of Webb, Herkimer County, State of New York, known as 3183 State Route 28, Old Forge, New York 13420. The Project has an estimated cost of Three Million and 00/100 Dollars (\$3,000,000.00) (the "Project Costs"); and

A representative of the Agency will be at the above-stated time and place to review the project application, and hear comments and accept written statements from any persons with views in favor of or opposed to either the proposed Assistance to the Company or the location or nature of the Facility. A copy of the Application filed by the Company with the Agency with respect to the Facility, including an analysis of the costs and benefits of the Project, is available

for public inspection during business hours at the offices of the Agency. A transcript or summary report of the hearing will be made available to the members of the Agency.

Additional information can be obtained from, and written comments may be addresses to John J. Piseck, Jr., Executive Director, Herkimer County Industrial Development Agency, 420 E. German Street, Suite 101 A, Herkimer, New York 13350; Telephone 315-866-3000.

Mr. Piseck invited public comments.

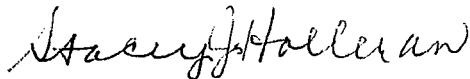
Jennifer Dunn asked if the assessed value has been changed by \$150,000.00? Mr. Piseck replied that this hearing is just to hear comments and not answer questions.

Justin Masters asked if the IDA considered publishing notice in a publication up north? Also asked if there was an idea on how long it will take for the closing to take place. Mr. Piseck said we cannot estimate that.

Also attached are comments submitted by email from Alison Albright 7/13/2019.

Being no further public comment, the public hearing was closed at 11:15 AM.

Respectfully Submitted,



Stacey J. Holleran
Assistant Secretary

Attachment: Sign in sheet
Email 7/13/2019

Subject: HCIDA Website Inquiry
Date : Saturday, July 13, 2019 9:01 pm
From : "Alison Albright" <albrightali.aa@gmail.com>
To : <jpiseck@herkimercountyida.org>

Dear Mr. Piseck,

I am unable to attend the public hearing regarding the \$3 million tax break given to the Water Safari. I am wondering why there is a public hearing, if there is no bond issue. Secondly, the owner of the water park owns a second home in the Caribbean, which, I dare say is worth more than the 3 million in tax breaks the county will give him to rebuild some water slides that he has the wherewithal to do anyway. Is it really prudent to have the taxpayers foot the bill for a private business which already exists and is thriving???? This is not economic development. It is a tax break for a thriving business funded by the taxpayers of the county, which is economically depressed. The water park, in my opinion has contributed negatively to the town of Old Forge. The traffic is ridiculous. People come to the water park and then go home. They do not stay. They also deposit their garbage wherever they choose on their way out. Please let me know what the purpose of the public hearing is.

Sincerely,
Alison Albright

ATTENDEES - PUBLIC HEARING
HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY
OLD FORGE PROPERTIES DBA ENCHANTED FOREST WATER SAFARI
JULY 22, 2019 @ 11:00 AM
TOWN HALL, 3140 STATE ROUTE 28, OLD FORGE, NY

NAME

ORGANIZATION

Justin Masters

Town of Webb Assessor

Jennifer Dunn

Town of Webb UFSID Bus. Mgr

Robert Moore

Town of Webb Supervisor

Mike Farmer

Town of Webb Publicity

Stacey Halloran

IDH Staff

Victoria Adams

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John Piseck