

**INITIAL RESOLUTION**  
*(8250 Park Rd LLC Project)*

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Thursday, October 6, 2022.

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

Resolution No. 10/2022 - 01

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACCEPTING AN APPLICATION OF 8250 PARK RD LLC WITH RESPECT TO A CERTAIN PROJECT (AS DEFINED BELOW, THE "PROJECT"), (ii) AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE PROJECT, (iii) MAKING A DETERMINATION UNDER ARTICLE 8 OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW IN CONNECTION WITH THE PROJECT, (iv) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT, AND (v) AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, MORTGAGE AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT; PROVIDED THAT NO FINANCIAL ASSISTANCE EXCEEDING \$100,000.00 SHALL BE PROVIDED TO THE COMPANY UNTIL SUCH TIME AS THE AGENCY HAS HELD A PUBLIC HEARING.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 565 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the "Act"), the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **8250 PARK RD LLC**, for itself or on behalf of an entity formed or to be formed by it or on its behalf (the "Company") has submitted an application (the "Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold or other interest in approximately 8.70 acres of land located at 8250 Park Road, Town of Batavia, Genesee County, New York (the "Land", being more particularly described as tax parcel number 8.-1-74) and the existing improvements located thereon, consisting principally of an approximately 190,000 square foot hotel (the "Existing Improvements"); (ii) the renovation, reconstruction, rehabilitation and operation of the Existing Improvements, including upgrades to hotel rooms, lobby space, event spaces, restaurant and indoor water park (collectively, the "Improvements"); and (iii) the acquisition by the Company in and around the Existing

Improvement and Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land, Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution describing the Project and the Financial Assistance (as defined below) that the Agency is contemplating with respect to the Project, and authorizing the Financial Assistance with respect to the Project; provided that the Financial Assistance (as defined below) provided to the Company shall not exceed \$100,000.00 until such time as the Agency has held a public hearing and adopted a subsequent resolution; and

WHEREAS, it is contemplated that the Agency will (i) hold a public hearing, (ii) designate the Company as agent of the Agency for the purpose of undertaking the Project pursuant to a project agreement (the "Project Agreement"), (iii) negotiate and enter into a lease agreement (the "Lease Agreement"), a leaseback agreement (the "Leaseback Agreement"), a tax agreement (the "Tax Agreement") and related documents, (iv) take a leasehold interest in the Land, the Existing Improvements, the Improvements, the Equipment and the personal property constituting the Project (once the Lease Agreement, the Leaseback Agreement and the Tax Agreement have been negotiated), and (v) provide Financial Assistance to the Company in the form of a mortgage recording tax exemption as authorized by the laws of New York State (collectively, the "Financial Assistance"); and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Par 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

WHEREAS, the Company has represented to the Agency that the Project is likely to attract a significant number of visitors from outside the economic development region (as established by Section 230 of the New York State Economic Development Law), and therefore the Project constitutes a "tourism destination" as defined in Section 862(2) of the Act.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER AS FOLLOWS:

Section 1. The Company has presented an Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Application, the Agency hereby finds and determines that:

(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; and

(B) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and equipping the Project; and

(C) The Agency has the authority to take the actions contemplated herein 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 Genesee County, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) The Project will not result in the removal of a facility or a commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries.

(F) Based upon the review by the Agency of the Application submitted by the Company with respect to the Project, the Agency finds that the proposed action constitutes a "Type II" action pursuant to 6 N.Y.C.R.R. Part 617.5 and therefore is exempt from review under SEQRA.

(G) Based upon the Agency's prior review of the Application submitted by the Company, along with supporting materials, the Project will include facilities or property that are primarily used in making retail sales, as defined within Section 862(2) of the Act, to customers who personally visit the Facility. Notwithstanding the foregoing, and based upon the Application and supporting materials prepared and presented by the Company to the Agency, the Project constitutes a "tourism destination" inasmuch as the Project and Facility will likely attract a significant number of visitors from outside the economic development region (as established by Section 230 of the Economic Development Law) in which the Project is located.

Section 2. The Agency is hereby authorized to conduct a public hearing in compliance with the Act.

Section 3. *Provided that no Financial Assistance exceeding \$100,000.00 shall be provided to the Company until such time as the Agency has held a public hearing,* the Chairman, Vice Chairman, Executive Director and/or Senior Vice President of Operations of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender/financial institution identified by the Company (the "Lender") up to a maximum principal amount of **\$8,000,000.00** to undertake the Project, acquire the Facility and/or finance or re-finance equipment and other personal property and related transactional costs (hereinafter, with the

Lease Agreement and the Leaseback Agreement, collectively called the "Agency Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chairman, Vice Chairman, Executive Director and/or Senior Vice President of Operations of the Agency shall approve, with the execution thereof by the Chairman, Vice Chairman, Executive Director and/or Senior Vice President of Operations of the Agency to constitute conclusive evidence of such approval; *provided, however*, in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 4. The Agency is hereby authorized to provide the Company with an exemption from mortgage recording taxes as permitted by New York State law in an amount not to exceed Eighty Thousand and 00/100 Dollars (**\$80,000.00**).

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 Resolution was duly put to a vote on roll call, which resulted as follows:

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Peter Zeliff	[ X ]	[   ]	[   ]	[   ]
Matthew Gray	[ X ]	[   ]	[   ]	[   ]
Paul Battaglia	[ X ]	[   ]	[   ]	[   ]
Craig Yunker	[ X ]	[   ]	[   ]	[   ]
Todd Bender	[   ]	[   ]	[ X ]	[   ]
Chandy Kemp	[ X ]	[   ]	[   ]	[   ]
Marianne Clattenburg	[ X ]	[   ]	[   ]	[   ]

The Resolutions were thereupon duly adopted.

**CERTIFICATION**  
*(8250 Park Rd LLC Project)*

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

I, the undersigned Secretary of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, DO HEREBY CERTIFY:

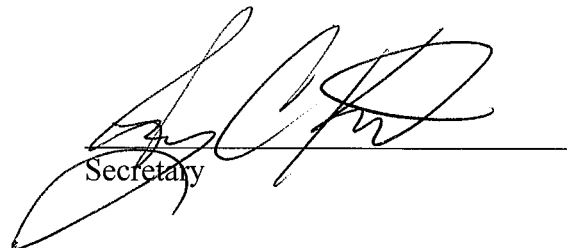
That I have compared the annexed extract of minutes of the meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency"), including the resolution contained therein, held on October 6, 2022, with the original thereof on file at the Agency's office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this 17<sup>th</sup> day of October, 2022.

  
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Secretary