

COUNTIES OF WARREN AND WASHINGTON
INDUSTRIAL DEVELOPMENT AGENCY

5 Warren Street, Suite 210
Glens Falls, New York 12801

Telephone: (518) 792-1312

At the Special Board Meeting of the Counties of Warren and Washington Industrial Development Agency held on **March 10, 2015** at the Offices of FitzGerald Morris Baker Firth PC in Glens Falls, NY, the following members were:

<i>PRESENT:</i>	Harold Taylor	Chairman
	Bruce Ferguson	Vice Chairman/Park Chairman
	Joseph LaFiura	Secretary/Treasurer
	John Millett, Sr.	At Large Member
	Lou Tessier	
	Jim Lindsay	
	John W. Weber	
	John Kvocka	

ABSENT: Dave O'Brien

<i>ALSO PRESENT:</i>	Pamela J. Burns	FitzGerald Morris Baker Firth PC
	Deborah Mineconzo	Office Administrator

The minutes of the meeting were taken by the Agency's Office Administrator. The Chairman called the meeting to order at 8:30am.

Approval of the February 2015 Board Meeting minutes: Mr. LaFiura made a motion to accept the minutes of the February 17, 2015 Board Meeting. Mr. Tessier seconded the motion and the minutes were unanimously approved by voice vote.

Kenny-Dittrich Amherst, LLC: Mr. Taylor introduced the draft Inducement Resolution for consideration on the Kenny-Dittrich Amherst, LLC. Mr. Taylor informed the members the Public Hearing was held as scheduled on March 2nd. There were no representatives from the Village or Town of Lake George present. He added the project developer stated the new hotel will be open year round and anticipates about \$700,000 in sales tax revenue for the area. There was some discussion about the feasibility of a successful year round hotel/banquet center in Lake George. After reviewing the estimated job projections on the application, Mr. Ferguson made the motion to approve the Inducement Resolution as presented. Mr. Weber seconded and all voted in favor of the resolution by roll call vote except Bud Taylor who abstained.

Resolution No. 15-02
Adopted March 10, 2015

RESOLUTION TAKING PRELIMINARY ACTION TOWARD UNDERTAKING A CERTAIN PROJECT, AS DEFINED HEREIN, APPOINTING KENNY & DITTRICH AMHERST, LLC, AGENT OF THE AGENCY FOR THE PURPOSE OF CONSTRUCTING AND EQUIPPING THE PROJECT FACILITY (AS DEFINED HEREIN) AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BY AND BETWEEN THE AGENCY AND KENNY & DITTRICH AMHERST, LLC

(Complete Resolution at end of these minutes)

Mr. Kvocka inquired about the Agency's procedures and policies in regard to revoking or recapturing taxes if a project does not meet our reporting, job count or payment criteria. Ms. Burns and Mrs. Mineconzo informed the Board about the required year end reporting by all IDA projects including job counts. The job counts are reviewed annually by the Audit & Finance Committee. All the required project information is reported to NYS on the PARIS software also annually and subsequently reviewed by the NYS ABO.

There being no further business for the Board to address, Mr. Ferguson moved to adjourn the special Board Meeting. John Millett seconded and Chairman Taylor adjourned the meeting at 8:45 am.

Date: _____

Joseph LaFiura, Secretary

Resolution No. 15-02
Adopted March 10, 2015

Introduced by Bruce Ferguson
who moved its adoption.

Seconded by John Weber

RESOLUTION TAKING PRELIMINARY ACTION TOWARD UNDERTAKING A CERTAIN PROJECT, AS DEFINED HEREIN, APPOINTING KENNY & DITTRICH AMHERST, LLC, AGENT OF THE AGENCY FOR THE PURPOSE OF CONSTRUCTING AND EQUIPPING THE PROJECT FACILITY (AS DEFINED HEREIN) AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BY AND BETWEEN THE AGENCY AND KENNY & DITTRICH AMHERST, LLC

WHEREAS, the Counties of Warren and Washington Industrial Development Agency (the "Agency") is a body corporate and politic duly organized and existing under Sections 856 and 890-c of the General Municipal Law ("GML") of the State of New York (the "State"), with its principal place of business at 5 Warren Street, Glens Falls, New York; and

WHEREAS, Kenny & Dittrich Amherst, LLC (the "Company"), having a current address 365 Canada Street, Lake George, New York 12845, is a limited liability company created pursuant to the Laws of the State of New York; and

WHEREAS, the Company has submitted an Application for Assistance ("Application") requesting that the Agency undertake an industrial development project (the "Project") consisting of: (i) the acquisition of an interest in a certain commercial parcel of land located at 365 Canada Street, Village of Lake George, Town of Lake George, County of Warren, State of New York (the "Land"); (ii) the construction and equipping of a 108,115+/- square foot 120 room hotel and additional retail space (the "Facility"); (iii) the acquisition and installation therein of certain furnishings and fixtures (the "Equipment" together with the Land and the Facility, collectively the "Project Facility") to be used in connection with the contemplated uses; and (iv) the lease of the Project Facility to the Company, all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the "Act"), as amended; and

WHEREAS, under Article 18-A of the General Municipal Law (the "Act"), the Legislature of the State of New York has granted the Agency the power and authority to undertake the Project; and

WHEREAS, pursuant to Section 862(2)(a) of the General Municipal Law, after

discussion and consideration, the Agency has determined that the Project falls within the scope of the definition of a “tourism destination” as defined by the laws of the State of New York.

WHEREAS, the Project will require the Agency and the Company to enter into an agreement whereby the Company will acquire, by deed or by lease, and construct the Project Facility and the Agency will lease or sell the Project Facility to the Company with an option to buy; and

WHEREAS, the Agency is a state agency under Section 8-0105 of the Environmental Conservation Law of the State of New York and the Project is an action under Article 8 of said law (Article 8 hereinafter being referred to as the “State Environmental Quality Review Act” or “SEQRA”) and under Title 6 of the New York Codes, Rules and Regulations Parts 617.2(b) and 617.3(g); and

WHEREAS, the Project is located within the Adirondack Park and the Project is classified as a Class A Regional Project pursuant to the Adirondack Park Agency Act and therefore, pursuant to Title 6 of the New York Codes, Rules and Regulations Part 617.5(b)(36), the Project is exempt from review under SEQRA; and

WHEREAS, the Planning Board of the Village of Lake George approved a Special Use Permit for the Project on February 10, 2014 and identified the Project as a Class A Regional Project; and

WHEREAS, the Planning Board of the Village of Lake George approved the Site Plan Review for the Project on February 19, 2014 and identified the Project as a Class A Regional Project; and

WHEREAS, the Adirondack Park Agency approved a permit for the construction of the project on July 10, 2014; said permit was issued on July 15, 2014, as APA Project Permit No. 2014-33 and was recorded in the Warren County Clerk’s Office on August 1, 2014 as Instrument Number 2014-4652; and

WHEREAS, the acquisition, construction and installation of the Project Facility has not been commenced, and the Agency has not yet authorized the Project; and

WHEREAS, the Agency conducted a public hearing pursuant to Article 18-A of the New York State General Municipal Law (the “Law”) before taking official action relating to the Project.

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1. Findings. The Agency has reviewed the application together with the environmental assessment form to determine compliance with the requirements of the Act and

based on the representations of the Company to the Agency in said application and elsewhere, the Agency hereby makes the following findings and determinations with respect to the Project:

- (A) The Project is a permitted project under the Act; and
- (B) Undertaking the Project will advance the Agency's corporate purposes by leading to the creation of job opportunities for the inhabitants of the Counties of Warren and Washington, New York and the State of New York. The Project will also promote the health, prosperity, and economic welfare of the inhabitants of the Counties of Warren and Washington and the State of New York and improve their standards of living; and
- (C) The Project, to be located in the Village of Lake George, is designated as a "tourism destination" project and the location as well as the Project will likely attract a significant number of visitors from outside the economic development region, namely the Capital District, in which it is located; and
- (D) The Project is classified as a Class A Regional Project pursuant to the Adirondack Park Agency Act and therefore, pursuant to Title 6 of the New York Codes, Rules and Regulations Part 617.5(b)(36), the Project is exempt from review under SEQRA; and
- (E) It is in the public interest for the Agency to undertake the Project on behalf of the Company; and
- (F) The completion of the Project will not result in the removal of a commercial, industrial or manufacturing plant of the Company from one area of the State of New York to another area of the State of New York. Further, the completion of the Project will not result in any loss of jobs and all existing jobs will be retained nor will the completion of the Project result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Facility located within the State of New York.

SECTION 2. Preliminary Agreement. The proposed preliminary project agreement by and between the Agency and the Company (the "Preliminary Agreement"), as presented to this meeting, is hereby approved as to substance and form. The proposed agreement outlines the Agency's and the Company's rights and duties with respect to the undertaking of the Project. Subject to such changes as the Chairman of the Agency, upon advice of counsel, may reasonably deem necessary, the Chairman is authorized to execute the Preliminary Agreement, and the Secretary of the Agency is authorized to affix a facsimile of the corporate seal thereto and to attest to the same. Execution and attestation shall be conclusive evidence that the Agency has approved the Preliminary Agreement.

SECTION 3. Description of Project.

Subject to the conditions set forth herein and in Section 4.02 of the Preliminary Agreement, the

Agency shall:

- (1) acquire an interest in, construct and install the Project Facility; and
- (2) lease or sell the Project Facility to the Company pursuant to an agreement or agreements whereby the Company will obligate itself, among other things, to undertake the Project on behalf of the Agency.

SECTION 4. Company Appointed Agent of Agency.

(A) The Company is hereby appointed the true and lawful agent of the Agency to:

- (1) construct and install the Project Facility;
- (2) make, execute, acknowledge, and deliver all contracts, orders, receipts,
- (3) do all other things requisite and proper for the completion of the Project.

(B) The Company is authorized to proceed with the acquisition, construction and installation of the Project Facility, subject to receiving appropriate municipal approvals needed prior to commencement of construction, and to advance such funds as may be necessary to accomplish these goals.

(C) The Company is also authorized to appoint third party agents to undertake the Project and thereby make available to such third party agents an exemption from New York State sales and use taxes in connection with undertaking the Project. This provision is subject to the Company entering into an Agent Agreement with the Agency.

SECTION 5. §144 Election. Not Applicable.

SECTION 6. Bond Counsel. Not Applicable.

SECTION 7. Document Preparation. Counsel to the Agency is hereby authorized and directed to cooperate with counsel to the Company, as well as all other necessary parties, in order to prepare the documents needed to undertake the Project.

SECTION 8. Payment in Lieu of Tax (PILOT) Agreement. The Agency's approval is subject to the Company entering into a PILOT Agreement with the Agency whereby the Company agrees to make payments in lieu of taxes in an amount pursuant to the Agency's Uniform Tax Abatement Policy in any given year as if the Company were the owner of the Project and not the Agency. The Agency's approval is also subject to the Company agreeing to the terms of the Agency's Recapture Policy. The Agency declares that the PILOT Agreement shall not contain any tax abatements.

SECTION 9. Public Inspection. A copy of this resolution and a copy of the Company's Application for Assistance, together with all other application materials not protected under

applicable Freedom of Information Laws, shall be placed on file in the office of the Agency. Such documents shall be available for public inspection during normal business hours.

SECTION 10. Distribution of Resolution. The Chairman of the Agency is hereby authorized to distribute copies of this resolution to the Company and all other persons requesting it.

SECTION 11. Public Hearing. A public hearing for this Project was duly authorized and held on March 2, 2015 in accordance with the provisions of Article 18-A of the General Municipal Law.

SECTION 12. Further Action. The Chairman of the Agency is authorized to take such further action as shall be necessary to give effect to and implement this resolution.

SECTION 13. Effective Date. This resolution shall not take effect until the Company delivers to the Agency of a fully executed Preliminary Agreement, as defined herein, together with a \$25,000.00 security deposit, the latter of which the Agency acknowledges as having been received by the Company.

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

VOTING:	AYES	NAYS	ABSTAIN	ABSENT
Harold G. Taylor	0		1	
Bruce A. Ferguson	1			
Joseph P. LaFiura	1			
Louis Tessier	1			
John Millett, Sr.	1			
James T. Lindsay	1			
Dave O'Brien				1
John W. Weber	1			
John S. Kvocka	1			
TOTALS	7	0	1	1

The foregoing resolution was thereupon declared duly adopted.