

COUNTIES OF WARREN AND WASHINGTON
INDUSTRIAL DEVELOPMENT AGENCY

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

Telephone: (518) 792-1312

At the Board Meeting of the Counties of Warren and Washington Industrial Development Agency held on **September 19, 2016** at the Washington County Municipal Center in Fort Edward, NY, the following members were:

PRESENT:	Bud Taylor	Chairman
	Bruce Ferguson	Vice & Park Chairman/Contracting Officer
	Matt Simpson	At Large Member
	Lou Tessier	
	Jim Lindsay	
	John W. Weber	
	Dave O'Brien	
	Craig Leggett (delayed arrival)	
	Richard F. Moore	

ABSENT:	Joseph LaFiura	Secretary/Treasurer
----------------	----------------	---------------------

ALSO PRESENT:	Robert Morris, Esquire	FitzGerald Morris Baker Firth PC
	Deborah Mineconzo	Office Administrator

The minutes of the meeting were taken by the Office Administrator. The Chairman called the meeting to order at 4:00 pm. The Chairman introduced the new Board Member, Richard F. Moore, to everyone. After attendance was taken the Chairman determined a quorum was present.

Approval of minutes:

Mr. Simpson made a motion to approve the August 15, 2016 Board Meeting minutes. Mr. O'Brien seconded the motion and all voted in favor of the motion by voice vote.

Accounts Payable:

In the Treasurer's absence, Mr. Ferguson moved to approve the accounts payables as presented with Mr. Lindsay seconding. The motion was approved by roll call vote.

Old/Unfinished Business:

TRSB Enterprises, LLC (RockSport)

Mr. Morris reminded everyone that since TRSB Enterprises/Hard as a Rock Training Center is a retail project, approval must be given by both counties to approve the project for benefits under the new regulations. Mr. Morris reviewed the project for the new member's benefit particularly the Agency's assistance in the form of a PILOT with sales tax and mortgage tax exemptions. This retail project was approved by our agency because there is nothing like it in this area between Albany and Plattsburgh. TRSB Enterprises owns the property where Hard as a Rock Training Center will be located. Mr. Morris informed the members that both County (Warren & Washington) Chairmen gave their needed approvals at their recent meetings. The developers plan to close later this week as financing is in place. Mr. O'Brien moved to approve the draft closing resolution for the project with Mr. Simpson seconding. All voted in favor of the motion by roll call vote.

Resolution No. 16-16
RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY BY THE COUNTIES OF
WARREN AND WASHINGTON INDUSTRIAL DEVELOPMENT AGENCY OF A LEASE
AGREEMENT AND RELATED DOCUMENTS IN CONNECTION WITH THE HARD AS A ROCK
TRAINING CENTER, INC. dba ROCKSPORT AND TSRB ENTERPRISES, LLC
PROJECT
(PROJECT NO. 5202-16-03A)
(Complete resolution annexed to this document)

New Business:
(Mr. Leggett arrives)

PILOT Invoices:

Mr. Taylor brought to everyone's attention the recent School PILOT Invoice List sent all the members. The taxes are due by September 30th. Mr. Lindsay asked if North County Property Holdings had paid their Town & Country taxes for 2016 (billed earlier this year). Mrs. Mineconzo advised him they had paid them but later than the due date. A (two month) penalty was consequently added to the originally owed amount and was paid.

NYS ABO Letter regarding website:

Mr. Taylor brought up the NYS ABO letter everyone received regarding ABO's review of our website. Mr. Taylor voiced the importance of this fantastic letter and has a lot to do with the job the administrator does at the office. He added there were 33 items measured by the ABO on the website. Out of the 33 items, our Agency was okay on all of them. Mr. Taylor added that our year end accountant, Dennis Defayette, checked the ABO website and found that out of 23 IDA's that had their websites reviewed, ours was the only one with a perfect score (!).

Administrator's Annual Review:

As the Administrator's Annual Review was scheduled next, the Chairman asked the administrator to leave the meeting for a few minutes so the members could hold a discussion. Upon her requested return, Mr. O'Brien moved to increase Mrs. Mineconzo's hourly pay by \$1.00. Mr. Weber seconded the motion and all voted in favor of the motion by roll call vote. Mrs. Mineconzo responded with thanks to all the members.

There being no further business to discuss, Mr. O'Brien moved to adjourn the meeting with Mr. Simpson seconding. The Chairman adjourned the meeting at 4:10 pm.

Dated

Joseph LaFiura, Secretary

Resolution No. 16 - 16
Adopted September 19, 2016

Introduced by Dave O'Brien
who moved its adoption.
Seconded Matt Simpson

**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY BY THE COUNTIES OF
WARREN AND WASHINGTON INDUSTRIAL DEVELOPMENT AGENCY OF A LEASE
AGREEMENT AND RELATED DOCUMENTS IN CONNECTION WITH THE HARD AS A ROCK
TRAINING CENTER, INC. dba ROCKSPORT AND TRSB ENTERPRISES, LLC
PROJECT**

(PROJECT NO. 5202-16-03A)

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Section 890-c of the General Municipal Law of the State of New York (collectively, the "Act"), the Counties of Warren and Washington Industrial Development Agency (the "Agency") was created and granted the authority to enter into agreements for the purpose of acquiring, constructing and equipping certain industrial facilities; and

WHEREAS, to advance the public purposes for which it was created, the Agency, upon application of TRSB Enterprises, LLC (the "Company") and Hard as a Rock Training Center, Inc. (the "Operator"), has agreed to assist the Company by undertaking a project (the "Project") consisting of the following: (i) the acquisition of an interest in a certain commercial parcel or parcels of land located at Carey Road (Lot 2), in the Town of Queensbury, County of Warren, State of New York and referred to as Tax Map Parcel Number 308.20-1-3.5 (the "Land"); (ii) the construction and equipping of a 8,400+/- square foot indoor climbing center and fitness facility (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, the Agency, by resolution duly adopted on August 15, 2016 (the "Inducement Resolution"), took official action under the Act toward undertaking the Project; and

WHEREAS, the Agency, the Company and Operator have entered into a Preliminary Agreement having an effective date of August 19, 2016 setting forth the terms and conditions of the Project; said terms and conditions as set forth in the Preliminary Agreement shall survive the date of the Closing; and

WHEREAS, the Company and the Operator have agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities which may arise in connection with the transactions contemplated by the lease of the Facility; and

WHEREAS, the Agency has determined that all of the requirements of the Act have been complied with and that the contemplated transaction will further the public purposes of the Act; and

WHEREAS, the Project constitutes a "Project" within the meaning of the Act; and

WHEREAS, a lease agreement (the “Lease Agreement”) with respect to the Project, along with certain financing documents, will be executed by and between the Company and the Agency; 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 6 NYCRR Part 617, §§617.2(b) and 617.3(g); and

WHEREAS, the Company has submitted to the Agency, and the Agency has reviewed information needed to determine whether or not the Project will have a significant impact on the environment; 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 (collectively, the “SEQR Act”), the Agency previously identified the Project as an “Action” under SEQR Act for which the Town of Queensbury Planning Board (the “Planning Board”) acted as lead agency; and

WHEREAS, the Project is an “Unlisted Action” under SEQRA and on or about March 22, 2016, the Planning Board reviewed the Project Site Plan Application submitted on behalf of the Company and approved said Site Plan, and issued its Negative Declaration that the Project will not have a significant impact on the environment; and, on August 15, 2016, the Agency thoroughly reviewed the environmental assessment form, negative declaration and related supporting information presented to the Agency within the Company’s and Operator’s Application for Assistance in order to determine whether the Project might have any potential significant adverse impacts upon the environment. After conducting this review, the Agency determined that the acquisition, construction and equipping of the Project Facility are consistent with social, economic and other essential considerations and will not result in any significant adverse impacts on the environment. The Agency thereafter, on August 15, 2016, ratified the findings and Negative Declaration of the Town of Queensbury Planning Board and thereby satisfied the requirements of Part 617 of Title 6 of the New York Code of Rules and Regulations; and

WHEREAS, at least one third of the total project costs for the Project will be used for the development of a retail facility. Pursuant to Section 862 of the General Municipal Law, financial assistance from the Agency is prohibited for retail projects unless one of the following exceptions applies: (A) a tourism destination project; (B) a project located in a highly distressed area; and/or (C) a project that provides a product or service to the area that otherwise would not be available. In accordance with *Sales Tax Reporting and Recordkeeping Requirements for Industrial Development Agencies and Authorities*, NYS Department of Taxation and Finance, dated February 7, 2017 (TSB-M-14(1)(S)), the Agency determined that the Project meets (A) and (C), herein; and

WHEREAS, the Inducement Resolution was adopted contingent upon the approval of the Chief Executive Officers of the Counties of Warren and Washington pursuant to Section 862(2)(c) of the General Municipal Law; and

WHEREAS, the Chairman of the Washington County Board of Supervisors approved the Inducement Resolution pursuant to and in accordance with a resolution of the Washington County Finance Committee adopted September 8, 2016; and

WHEREAS, the Chairman of the Warren County Board of Supervisors approved the Inducement Resolution on September 16, 2016 in accordance with Resolution No. 405 of the Warren County Board of Supervisors adopted September 16, 2016.

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1. FINDINGS. The Agency hereby finds that:

(A) 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;

(B) The Project constitutes a “project”, as that quoted term is defined in the Act;

(C) The acquisition, construction and installation of the Facility and the lease of the Facility to the Company (i) will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the State of New York and the Counties of Warren and Washington and improve their standard of living, and (ii) will not result in the removal of an industrial or manufacturing plant of the Company from one area of the State to another area of the State;

(D) The location of the site of the Project is acceptable to the Agency;

(E) The Facility is not known by the Agency to be in material violation of the local zoning laws and planning regulations of the Town of Queensbury and all regional and local land use plans for the area in which the Facility shall be located; and

(F) The Facility and the operations of the Company and the Operator are not known by the Agency to cause or result in the violation of the health, labor, environmental or other laws of the United States of America, the State of New York, the County of Warren or the Town of Queensbury.

SECTION 2. DETERMINATIONS. The Agency hereby determines to:

(A) enter into the Underlying Lease from the Company to the Agency and the Lease Agreement with the Company; and

(B) execute and deliver all other certificates and documents, including but not limited to a mortgage for Project Facility, subject to the review and approval of counsel to the Agency.

SECTION 3. AUTHORIZATION. The Agency is hereby authorized to acquire, construct and install the Facility. All previous acts taken by the Agency with respect to the acquisition, construction and installation of the Facility are hereby approved, ratified and confirmed.

SECTION 4. APPOINTMENT OF COMPANY AS AGENT. (A) The appointment of the Company and the Operator as agents of the Agency to acquire, construct and install the Facility is hereby ratified and confirmed. (B) The Agency does hereby consent to provide the Company and/or the Operator with the authority 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. Such authority shall be further defined and verified in an Agent Agreement to be entered into between the Agency and the Company and/or the Operator.

SECTION 5. APPROVAL OF AGREEMENT FOR PAYMENTS IN LIEU OF TAXES. The Agreement for Payments in Lieu of Taxes (the "PILOT Agreement"), is hereby approved, subject to approval as to content by the Chairman and the Agency's counsel and shall be in compliance and in accordance the Agency's Uniform Tax Exemption Policy. The PILOT Agreement shall be for a term of ten (10) years. The PILOT payment schedule shall be as follows: Years 1-5: base assessed value plus 50% of the increased assessed valuation attributable to improvements made to the Project Facility and Years 6-10: base assessed value plus 75% of increased assessed valuation attributable to improvements made to the Project Facility.

SECTION 6. APPROVAL OF COMPANY'S FINANCING DOCUMENTS. The substance and form of the Underlying Lease, the Lease Agreement, the Agreement for Payments in Lieu of Taxes, and all other certificates or documents to be delivered or executed and delivered by the Agency (hereinafter collectively referred to as the "Closing Documents") are hereby approved, subject to approval as to content by the Chairman and the Agency's counsel. The Company and the Operator shall be required to provide insurance protecting the Agency against loss or losses from liabilities with a single combined limit of not less than \$2,000,000 per accident or occurrence and a blanket excess liability policy in an amount of not less than \$5,000,000.

SECTION 7. AUTHORIZED REPRESENTATIVES. (A) The Chairman or the Vice Chairman is hereby authorized to execute and deliver the Closing Documents. If required, the signature of the Chairman or Vice Chairman shall be attested by the Secretary or Treasurer of the Agency (or Agency Counsel, in the absence of a Secretary/Treasurer) who, if required, shall affix a facsimile of the Agency's seal to documents required to be under seal. (B) On the advice of Counsel to the Agency, the Chairman or Vice Chairman shall make such reasonable changes to the Closing Documents as shall be required to promote and protect the Agency's interests with respect to the Project. All such changes shall be made prior to the closing.

SECTION 8. FURTHER ASSURANCE. The officers, employees and agents of the Agency are hereby authorized and directed to do all acts required by the provisions of the Closing Documents, and to execute and deliver all additional certificates, instruments and documents and to pay all fees, charges and expenses and do all other acts that may be necessary or proper to effectuate the purposes of this resolution. None of the members, officers, directors, employees or agents (except the Company) of the Agency, shall be personally liable under the other Closing Documents.

SECTION 9. FILING OF DOCUMENTS. Originals of all Closing Documents for the Project shall be filed and maintained in the office of the Agency.

SECTION 10. PUBLIC INSPECTION. A copy of this resolution and the Closing Documents shall be placed on file in the office of the Agency, where they shall be available for public inspection during business hours.

SECTION 11. EFFECTIVE DATE. This resolution shall take effect immediately.

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	1			
Bruce A. Ferguson	1			
Joseph P. LaFiura				1
Louis Tessier	1			
James T. Lindsay	1			
Dave O'Brien	1			
John W. Weber	1			
Matthew Simpson	1			
Craig Leggett				1
Richard F. Moore	1			
TOTALS	8	0	0	2

The foregoing resolution was thereupon declared duly adopted.