

COUNTIES OF WARREN AND WASHINGTON
INDUSTRIAL DEVELOPMENT AGENCY

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At the Board Meeting of the Counties of Warren and Washington Industrial Development Agency held on **November 16, 2015** at the Washington County Municipal Center in Fort Edward, NY, the following members were:

PRESENT:

Bud Taylor	Chairman
Bruce Ferguson	Vice Chairman/Park Chairman
Joseph LaFiura	Secretary/Treasurer
Matt Simpson	At Large Member
Lou Tessier	
Jim Lindsay	
Dave O'Brien	
John W. Weber	
John Kvocka	

ABSENT:

John Millett, Sr.

ALSO PRESENT:

Robert C. Morris, Esq.	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.

Approval of minutes:

Mr. O'Brien made a motion to approve both the September 21, 2015 and October 19, 2015 minutes. Mr. Simpson seconded the motion and all voted in favor of the motion by voice vote.

Accounts Payable:

Mr. LaFiura moved to approve the accounts payables as presented with Mr. Tessier seconding. The motion was approved by roll call vote.

Park Committee Business:

Patti Co./Morris Products – Construction Delay:

Jeff Schwartz, owner of Patti Co./Morris Products, requested (by letter) another extension of time for his project. He was asked by Mr. Taylor to attend today's meeting to explain the delay with his expansion. He said his construction manager, who has handled all of his expansions, has had difficulty getting the work accomplished in a timely manner. Mr. Schwartz reported the building permit has now been issued and financing is in place. Bid documents are being prepared to be sent out around January 2016. At this point, Mr. Schwartz anticipates construction on the new expansion beginning in April 2016. The construction and installation of all equipment should be completed no later than April 2017. He is asking for a one year extension on the sales tax exemption and the starting PILOT. Mr. Taylor advised him the

Board will consider approval of the extension at next month's meeting.

New Business:

TFC Enterprises LLC – Inducement Resolution:

Mr. Taylor informed the members the Public Hearing for the TFC Enterprises LLC-Tree Paad project was held this morning. Other than the developer (with her business consultant) and Joe LaFiura, no one else showed up. Mr. Taylor added he has not heard any opposition to this project. There being no questions or discussion, Mr. LaFiura moved to pass the Inducement Resolution for this project with Mr. Kvocka seconding. All voted in favor of the motion by roll call vote.

Resolution No. 15-12

Adopted November 16, 2015

**RESOLUTION TAKING PRELIMINARY ACTION TOWARD UNDERTAKING A CERTAIN PROJECT, AS DEFINED HEREIN, APPOINTING TFC ENTERPRISES, 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 TFC ENTERPRISES, LLC
(Full Resolution at end of these minutes)**

Innovative Concepts Consulting LLC – Public Hearing Resolution:

Mr. Taylor informed the members that because the White Creek Town Hall is open for Public Hearings only a few days a week, the date of the Public Hearing up for Board consideration for Innovative Concepts Consulting LLC was tentatively set up for Tuesday, December 15th (time currently undetermined).

The Executive Committee is currently scheduled to hold their monthly meeting that morning which would cause a timing conflict. Consequently, Mr. Taylor asked the Executive Park Committee Members, all present, if their Committee meeting could be moved one day earlier to Monday, December 14th at 9 am. All Committee Members confirmed the December 14th date would be convenient for their attendance.

Mr. Tessier then moved to approve the scheduling of the Public Hearing on December 15th. Mr. Simpson seconded and all voted in favor of the motion by voice vote.

Resolution No. 15-13

Adopted November 16, 2015

**RESOLUTION TO SCHEDULE A PUBLIC HEARING RELATING TO THE INNOVATIVE CONCEPTS AND CONSULTING, LLC PROJECT
(Full Resolution at end of these minutes)**

Other Matters:

Mr. Taylor brought up the subject of year end accounting and auditing proposals. Everyone had been handed out a comparative fee schedule and the Audit and Finance Committee met just before this meeting to review the proposals. Mr. Taylor mentioned the fee for the year end accounting (Snow Eicher Farrar) was \$1,500 higher than last year because it was decided a review of the full PILOT calculation spreadsheet should be performed this year end. The auditor's fee (Whittemore DOWEN Ricciardelli)

increased by \$50.00.

Mr. O'Brien stated the fees seemed high and wanted to know how many actual hours of work supported the fees. Mr. Taylor decided to put off a vote on the proposals until the December meeting. In the meantime, Mrs. Mineconzo was to request more information including hours worked to support the fees along with a summary of services performed for everyone's information.

There being no further business to discuss, Mr. Simpson moved to adjourn the meeting with Mr. Tessier seconding. The Chairman adjourned the IDA meeting at 4:30 pm.

Dated

Joseph LaFiura, Secretary

Resolution No. 15-12
Adopted November 16, 2015

Introduced by Joseph LaFiura
who moved its adoption.

Seconded by John Kvocka

RESOLUTION TAKING PRELIMINARY ACTION TOWARD UNDERTAKING A CERTAIN PROJECT, AS DEFINED HEREIN, APPOINTING TFC ENTERPRISES, 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 TFC ENTERPRISES, 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, TFC Enterprises, LLC (the "Company"), having an address of PO Box 4212, Queensbury, New York 12804, 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 or parcels of land located at 91 Glenwood Avenue, Town of Queensbury, County of Warren, State of New York (the "Land"); (ii) the construction and equipping of an existing 32,000+/- square foot commercial facility for a recreational facility for children (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, 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 6 NYCRR Part 617, §§ 617.2(b) and 617.3(g). The Agency has not yet made a preliminary determination as to the potential environmental significance of the Project and therefore has not yet determined whether an environmental impact statement is required to be prepared with respect to the Project; and

WHEREAS, pursuant to the Act, any approval of the Project contained herein is contingent upon a determination by the members of the Agency to proceed with the Project following satisfaction of all requirements of SEQRA that relate to the Project; 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 is an “Unlisted Action” under SEQRA for which the Town of Queensbury Planning Board (the “Planning Board”) will act as lead agency. A final determination (the “Closing Resolution”) by the members of the Agency to proceed with the Project and to enter into a lease agreement with the Company will follow a determination by the members of the Agency that all requirements of SEQRA that relate to the Project have been fulfilled. The Agency will not make a SEQRA determination until after the Planning Board review; and

(D) It is in the public interest for the Agency to undertake the Project on behalf of the Company; and

(E) 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, as the Company's lease at its current location will not be renewed. 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. The relocation of the Company to Warren County is reasonably necessary to maintain the competitive position of the Company in the industry.

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:

- (A) acquire an interest in, construct and install the Project Facility; and
- (B) 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, instructions, and writings needed to complete the Project; and
 - (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.

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 November 16, 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 an \$18,685.00 security deposit.

SECTION 14. Contingency. The closing of this Project shall be contingent on the Company obtaining financing from KeyBank.

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			
John Millett, Sr.				1
James T. Lindsay				1
Dave O'Brien	1			
John W. Weber	1			
John S. Kvocka	1			
Matthew Simpson	1			
TOTALS	8	0	0	2

The foregoing resolution was thereupon declared duly adopted.

Resolution No. 15-13
Adopted November 16, 2015

Introduced by Lou Tessier
who moved its adoption.

Seconded by Matt Simpson

**RESOLUTION TO SCHEDULE A PUBLIC HEARING RELATING TO THE INNOVATIVE
CONCEPTS AND CONSULTING, LLC PROJECT**

WHEREAS, Innovative Concepts and Consulting, LLC, a limited liability company established pursuant to the laws of the State of New York, having an address of 25 Computer Drive East, Albany, New York, 12205 (the "Company") has requested that the Agency provide financial assistance in the form of a mortgage tax exemption and sales tax abatements regarding a construction project (the "Project") to consist of: (i) the acquisition of an interest in and refinance of a certain commercial parcel or parcels of land located at 11 S. Union Street, Village of White Creek, Town of Cambridge, County of Washington, State of New York (the "Land"); (ii) the renovation and equipping of an existing 19,625+/- square foot commercial facility for the establishment of a NYS Department of Health Licensed Adult Home/Assisted Living 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, Chapters 356 and 357 of the Laws of 1993 require that prior to granting financial assistance of more than \$100,000.00 to any project, an IDA must (a) adopt a resolution describing the project and the financial assistance contemplated by the IDA with respect thereto, and (b) hold a public hearing in the city, town or village where the project proposes to locate upon at least ten (10) days published notice and, at the same time, provide notice of such hearing to the Chief Executive Officer of each affected taxing jurisdiction within which the project is located; and

WHEREAS, the Agency is in the process of reviewing and considering the Company's Application requesting the Agency to provide financial assistance for the proposed Project, which may include a sales tax abatement during the construction of the Facility, a mortgage tax exemption and a payment in lieu of taxes, all of which shall be consistent with the uniform tax exemption policy of the Agency.

NOW, THEREFORE, BE IT RESOLVED:

1. The Agency hereby schedules a public hearing pursuant to Article 18-A of the New York State General Municipal Law (the "Law") to be held by the Agency on Monday, the 15th day of December, 2016, at the White Creek Town Hall, located at 28 Mountain View Road in the Village of Cambridge, County of Washington, New York, 12816, in connection with the Proposed Project.
2. The Agency hereby authorizes the publication of a Notice of Public Hearing for the Proposed Project and in accordance with the Law and the Agency's policies and procedures.
3. This resolution shall take effect immediately.

AYES:	<u>8</u>
NAYS:	<u>0</u>
ABSENT:	<u>2</u>
ABSTAIN:	<u>0</u>