

**AGENT RESOLUTION
CREATIVE ENVIRONMENTS, LLC AND HENRY STOUT PROJECT**

A regular meeting of Ulster County Industrial Development Agency (the "Agency") was convened in public session in the Karen Binder Library located on the 6th Floor of the Ulster County Office Building located at 244 Fair Street in the City of Kingston, Ulster County, New York on April 12, 2017 at 8:00 a.m., local time.

The meeting was called to order by the (Vice) Chairman of the Agency and, upon roll being called, the following members of the Agency were:

PRESENT:

John Morrow	Vice Chairman
Randall Leverette	Treasurer
John Livermore	Assistant Secretary
James Malcolm	Assistant Treasurer

ABSENT:

Michael Horodyski	Chairman
Robert Kinnin	Secretary
Michael Bernholz	Member

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Suzanne Holt	Director, Office of Economic Development
Bernadette Andreassen	Office of Economic Development
A. Joseph Scott, III, Esq.	Agency Counsel

The following resolution was offered by Ronald Leverette, seconded by John Livermore, to wit:

Resolution No. 0417-__

RESOLUTION APPOINTING CREATIVE ENVIRONMENTS, LLC AND HENRY STOUT AS AGENTS OF ULSTER COUNTY INDUSTRIAL DEVELOPMENT AGENCY FOR THE PURPOSE OF UNDERTAKING AND COMPLETING A PROJECT FOR THE BENEFIT OF THE CREATIVE ENVIRONMENTS, LLC AND HENRY STOUT.

WHEREAS, Ulster County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of 1969 Laws of New York, constituting Title 1 of Article 18 A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 787 of the 1976 Laws of New York, as amended, constituting Section 923 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of commercial and manufacturing facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct and install one or more “projects” (as defined in the Act) or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, Creative Environments, LLC (“Creative”), a New York limited liability company and Henry Stout, an individual (“Stout”) (Creative and Stout being collectively referred to as the “Company”), have each submitted an application (collectively, the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately one (1) acre parcel of land located at 1 Valley View Road (being a portion of Tax Map No. 23.-2-28) in the Town of Shandaken, Ulster County, New York (the “Land”), together with various buildings located thereon (collectively, the “Existing Facility”), (2) the renovation of the Existing Facility and the construction of approximately 10 cottages (the “Cottages”), 1 pavilion (the “Pavilion”) and 1 cabana (the “Cabana”) on the Land containing in the aggregate approximately 8,300 square feet of space (collectively, the “New Facility” and together with the Existing Facility, the “Facility”), and (3) the acquisition and installation therein and thereon of certain machinery, equipment and other personal property (collectively, the “Equipment”), all of the foregoing to constitute a resort and other directly and indirectly related uses; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively with the Obligations, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on April 12, 2017 (the “Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), by resolution adopted by the members of the Agency on April 12, 2017 (the “SEQR Resolution”), the Agency (A) (1) concurred in the determination by the Town of Shandaken Planning Board (the “Planning Board”) to act as the “lead agency” with respect to the acquisition, construction and installation of the Planning Board Portion (as defined in the SEQR Resolution), and (2) indicated that the Agency had no information to suggest that the Planning Board was incorrect in determining that the acquisition, construction and installation of the Planning Board Portion would not have a “significant effect on the environment” and, therefore, that an “environmental impact statement” is not required to be prepared with respect to the acquisition, construction and installation of the Planning Board Portion and (B) determined that the Agency Portion (as defined in the SEQR Resolution) is a “Type II action”, with respect to which no further action was required pursuant to SEQRA (as such quoted terms are used in SEQRA); and

WHEREAS, although the lease agreement or installment sale agreement and related documentation (collectively, the “Project Documents”) have not yet been prepared, the Company has indicated to the Agency that the Company desires to commence the Project prior to completion of the Project Documents between the Agency and the Company related to the Project; and

WHEREAS, in order to preserve the sales tax exemption which forms a major portion of the Financial Assistance, the Agency now desires to temporarily formalize its understandings with the Company regarding the undertaking and completion of the Project by the Company as agent of the Agency; and

WHEREAS, pursuant to Section 859-a of the Act, prior to the Agency providing any financial assistance of more than one hundred thousand dollars (\$100,000) to any project, the Agency must hold a public hearing with respect to the project and the proposed financial assistance being contemplated by the Agency; and

WHEREAS, in order to preserve the sales tax exemption which forms a major portion of the Financial Assistance, **said portion of the Financial Assistance not to exceed \$99,000 prior to any approval of the Project by the Agency subsequent to the date of the Public Hearing**, the Agency now desires to temporarily formalize its understandings with the Company regarding the undertaking and completion of the Project by the Company as agent of the Agency;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF ULSTER COUNTY INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. In order to preserve the sales tax exemption which forms a major part of the Financial Assistance, **said portion of the Financial Assistance not to exceed \$99,000 prior to the Public Hearing**, and in order to facilitate the commencement of the Project, Creative is hereby temporarily appointed the true and lawful agent of the Agency (A) to undertake the Project, as the stated agent for the Agency, (B) to make, execute, acknowledge and deliver all contracts, orders, receipts, writings and instruments necessary in connection therewith, and in general to do all things as may be requisite or proper for undertaking the Project with the same powers and the same validity as the Agency could do if acting in its own behalf and (C) to pay all fees, costs and expenses incurred in the undertaking of the Project from its own funds, said temporary appointment to terminate on July 15, 2017.

Section 2. In order to preserve the sales tax exemption which forms a major part of the Financial Assistance, **said portion of the Financial Assistance not to exceed \$99,000 prior to the Public Hearing**, and in order to facilitate the commencement of the Project, Stout is hereby temporarily appointed the true and lawful agent of the Agency (A) to undertake the Project, as the stated agent for the Agency, (B) to make, execute, acknowledge and deliver all contracts, orders, receipts, writings and instruments necessary in connection therewith, and in general to do all things as may be requisite or proper for undertaking the Project with the same powers and the same validity as the Agency could do if acting in its own behalf and (C) to pay all fees, costs and expenses incurred in the undertaking of the Project from its own funds, said temporary appointment to terminate on July 15, 2017.

Section 3. The Agency (A) hereby agrees to the temporary appointment of Creative as an agent to undertake the Project and (B) determines to enter into an interim agency and indemnification agreement (the "Interim Creative Agency and Indemnification Agreement"), an interim Section 875 GML recapture agreement (the "Interim Creative Section 875 GML Recapture Agreement"), a uniform agency project agreement (the "Creative Uniform Agency Project Agreement") and any other documents or certificates required in connection with said appointment (collectively, the "Interim Creative Documents"), the form and substance of which the Chairman, Vice Chairman or the Executive Director of the Agency is authorized to negotiate and approve.

Section 4. The Agency (A) hereby agrees to the temporary appointment of Stout as agent, to undertake the Project and (B) determines to enter into an interim agency and indemnification agreement (the "Interim Stout Agency and Indemnification Agreement"), an interim Section 875 GML recapture

agreement (the “Interim Stout Section 875 GML Recapture Agreement”), a uniform agency project agreement (the “Stout Uniform Agency Project Agreement”) and any other documents or certificates required in connection with said appointment (collectively, the “Interim Stout Documents”), the form and substance of which the Chairman, Vice Chairman or the Executive Director of the Agency is authorized to negotiate and approve.

Section 5. The Chairman (or Vice Chairman) or the Executive Director of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Interim Creative Documents and the Interim Stout Documents, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in the forms thereof as the Chairman (or Vice Chairman) or the Executive Director shall approve, the execution thereof by the Chairman (or Vice Chairman) or the Executive Director to constitute conclusive evidence of such approval.

Section 6. 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 Interim Creative Documents and the Interim Stout Documents, and to execute and deliver all such additional 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 Resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Interim Creative Documents and the Interim Stout Documents binding upon the Agency.

Section 7. This Resolution 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:

Michael Horodyski	VOTING	<u>ABSENT</u>
John Morrow	VOTING	<u>YES</u>
Robert Kinnin	VOTING	<u>ABSENT</u>
Randall Leverette	VOTING	<u>YES</u>
John Livermore	VOTING	<u>YES</u>
James Malcolm	VOTING	<u>YES</u>
Michael Bernholz	VOTING	<u>ABSENT</u>

The foregoing Resolution was thereupon declared duly adopted.

