

CERTIFICATE OF INCORPORATION

OF

THE SULLIVAN COUNTY LOCAL DEVELOPMENT CORPORATION

A Not-For-Profit Local Development Corporation  
under Section 1411 of the Not-For-Profit  
Corporation Law of the State of New York

THE UNDERSIGNED, being over the age of eighteen years, for the purpose of forming a not-for-profit local development corporation pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York, hereby certifies as follows:

FIRST: The name of the corporation shall be "THE SULLIVAN COUNTY LOCAL DEVELOPMENT CORPORATION" (hereinafter referred to as the "Corporation").

SECOND: The Corporation will be a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-For-Profit Corporation Law of the State of New York and, as provided in Section 1411 of the Not-For-Profit Corporation Law, will be a charitable Corporation as defined in Section 201 of the Not-For-Profit Corporation Law. The Corporation shall serve as public instrumentality of, but operate separate and apart from, the County of Sullivan, New York (the "County").

THIRD: The purpose for which the Corporation is to be formed is to develop, own, construct (or cause to be constructed), maintain (or cause to be maintained) certain infrastructure and related improvements located on approximately 1,700 acres of land located in the Town of Thompson, Sullivan County, and will be operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, to relieve and reduce unemployment, promote and provide for additional and maximum employment, improve and maintain job opportunities, and lessen

the burden of government and act in the public interest. In furtherance of said purposes, the Corporation's powers shall include:

(a) To foster the creation, retention and expansion of jobs and economic opportunities for the benefit of the County, State and local economies;

(b) To construct, acquire, rehabilitate and improve for use by others, facilities in the territory in which its operations are principally to be conducted, to assist financially in such construction, acquisition, rehabilitation and improvement, to maintain and/or lease such facilities on its behalf or for others in such territory; to disseminate information and furnish advice, technical assistance and liaison with federal, state and local authorities with respect thereto;

(c) To acquire by purchase, lease, gift, bequest, devise or otherwise real or personal property or interests therein;

(d) To apply for loans and borrow money without limit as to amount; to make, draw, accept, endorse, execute and issue negotiable bonds, debentures, notes and other obligations therefor, including, without limitation, to issue negotiable bonds, notes or other obligations on behalf of the County in support of economic and community development activities thereby lessening the burdens of the County; provided, however, that in no event shall any such bonds, notes or other obligation be the direct or indirect obligation of the County, nor shall any be guaranteed or supported by the County;

(e) To sell, lease, mortgage or otherwise dispose of or encumber any such facilities or any of its real or personal property or any interest therein upon such terms as it may determine;

(f) To enter into covenants and agreements and to comply with all the terms, conditions and provisions thereof, and otherwise to carry out its corporate purposes and to foster and encourage the location or expansion of facilities and related

businesses in the territory in which the operations of the Corporation are principally to be conducted;

(g) To apply for and make grants and loans and to execute any and all documents necessary in connection therewith;

(h) To do any other act or thing incidental to or connected with the foregoing purposes or in advancement thereof, but not for the pecuniary profit or financial gain of its members, directors, officers or any private person; and

(i) In general, to perform any and all acts and things, and exercise any and all powers which may now or hereafter be lawful for the Corporation to do or exercise under and pursuant to the laws of the State of New York for the purpose of accomplishing any of the foregoing purposes of the Corporation; provided, however, that the foregoing purposes shall be exercised solely in connection with the Adelaar Resort Project and related properties including, but not limited to, the acquisition, construction and equipping of facilities to be operated by the Adelaar Resort Lighting District, the Adelaar Resort Drainage District, the Adelaar Resort Water District, the Adelaar Resort Sewer District and the Adelaar Road District (collectively, the "Adelaar Special Districts") and the acquisition, construction and equipping of projects to be located within or proximate to the Adelaar Special Districts, including, but not limited to, the Montreign Resort Casino, Monster Golf Course, Adelaar Entertainment Village and an Indoor Waterpark Lodge to be developed by Adelaar HWP, LLC.

FOURTH: The Corporation's mission and public objective, which the Corporation's purposes will achieve, include, but are not limited to, the lessening of the burdens of government by undertaking and promoting economic development initiatives in the County that will include real estate leasing, acquisition, development and management, real estate project finance, and other community-based economic development activities permissible under the Not-For-Profit Corporation Law.

FIFTH: The operations of the Corporation will be principally conducted within the County.

SIXTH: Pursuant to the requirements of Section 1411(e) of the Not-For-Profit Corporation Law:

(a) All income and earnings of the Corporation shall be used exclusively for its corporate purposes with the intent being that all income and earnings will be expended or deposited in appropriate reserves for corporate purposes; to the extent not so used, the income and earnings will accrue and be paid to the Job Development Authority to the extent required by Section 1411 of the Not-for-Profit Corporation Law.

(b) The property of the Corporation is irrevocably dedicated to charitable purposes. No part of the income or earnings of the Corporation shall inure to the benefit or profit of, nor shall any distribution of its property or assets be made to, any member, director or officer of the Corporation, or private person, corporate or individual, or to any other private interest, except that the Corporation may repay loans made to it and may repay contributions (other than dues) made to it to the extent that any such contribution may not be allowable as a deduction in computing taxable income under the Internal Revenue Code of 1986, as amended.

(c) If the Corporation accepts a mortgage loan or loans from the New York Job Development Authority, the Corporation shall be dissolved in accordance with the provisions of paragraph (g) of Section 1411 of the Not-For-Profit Corporation Law upon the repayment or other discharge in full by the Corporation of all such loans.

SEVENTH: (a) The Corporation shall not attempt to influence legislation by propaganda or otherwise, or participate in or intervene, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.

(b) The Corporation shall not engage in any activities not permitted to be carried on by an organization exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

(c) Nothing in this Certificate of Incorporation shall authorize this Corporation, directly or indirectly, to engage in or include among its purposes any of the activities mentioned in Section 404(a)-(w) of the Not-for-Profit Corporation Law, and, therefore, the Corporation is not formed to engage in any activity or for any purpose requiring consent or approval of any state official, department, board, agency or other body and no such consent or approval is required.

EIGHTH: In the event of the dissolution of the Corporation or the winding up of its affairs, the Board of Directors shall, after paying or making provision for the payment of all debts and liabilities of the Corporation of whatsoever kind or nature, distribute all of the remaining assets and property of the Corporation to the County in furtherance of the purposes set forth in Section 1411 of the Not-for-Profit Corporation Law. Any of such assets not so disposed of shall be disposed of by order of the Supreme Court of the State of New York pursuant to Section 1008 of the Not-For-Profit Corporation Law.

NINTH: The office of the Corporation shall be located in Sullivan County, New York.

TENTH: The offices of the Corporation shall be functionally separate from those of the County. The Corporation at all times shall:

(a) maintain separate accounting records and other corporate records from those of the County and its affiliated entities (hereafter collectively referred to as the "County Entities);

(b) not divert the Corporation's funds to any other person or for other than the use of the Corporation and not commingle any of the Corporation's assets with those of the County Entities;

(c) pay any employee, consultant or agent of the Corporation, or any other operating expense incurred by the Corporation, from the assets of the Corporation and not from the assets of any of the County Entities;

(d) maintain its own deposit account or accounts, separate from those of the County Entities, with commercial banking institutions and/or trust companies;

(e) to the extent that the Corporation contracts or does business with vendors or service providers where the goods and services provided are partially for the benefit of any other person, the costs incurred in so doing shall be fairly allocated to or among the Corporation and such persons for whose benefit the goods and services are provided, and the Corporation and each such person shall bear its fair share of such costs;

(f) conduct its business in its own name and conduct all material transactions between the Corporation and the County Entities only on an arm's-length basis;

(g) observe all necessary, appropriate and customary corporate formalities, including, but not limited to, holding all regular and special members' and directors' meetings appropriate to authorize all corporate action, keeping separate and accurate minutes of such meetings, passing all resolutions or consents necessary to authorize actions taken or to be taken, and maintaining accurate and separate books, records, and accounts, including, but not limited to, intercompany transaction accounts. regular members' and directors' meetings shall be held at least annually;

(h) ensure that decisions with respect to its business and daily operations shall be independently made by the Corporation (although the officer making

any particular decision also may be an employee, officer or director of the County Entities);

(i) act solely in its own corporate name and through its own authorized officers and agents, and use its own stationery;

(j) other than as expressly provided herein, pay all expenses, indebtedness and other obligations incurred by it;

(k) not enter into any guaranty, or otherwise become liable, with respect to any obligation of the County Entities;

(l) cause any financial reports required of the Corporation to be prepared in accordance with generally accepted accounting principles and be audited annually and be issued separately from, although they may be consolidated with, any reports prepared for any member of the County Entities; and

(m) ensure that at all times it is adequately capitalized to engage in the transactions contemplated herein.

ELEVENTH: The types or classes of Membership in the Corporation and the number of Members of the Corporation shall be described in the Corporation's By-laws. The initial Member of the Corporation shall be the County acting by and through the County Manager on an ex-officio basis.

TWELFTH: The Corporation shall be managed by a Board of Directors consisting of nine Directors. Any subsequent increase or decrease in the size of the Board of Directors will require the unanimous approval of the Members and the affirmative vote of a majority of the Directors.

THIRTEENTH: The names and addresses of the initial Directors of the Corporation and the expiration of the term for each initial Director shall be as follows:

<u>Name</u>	<u>Address</u>	<u>Initial Term Expiration</u>
Ira Steingart	5211 Main Street, P.O. Box 460 South Fallsburg, New York 12779	12/31/2018
Edward Sykes	692 River Road Callicoon, New York 12723	12/31/2016
Charlie Barbuti	74 Dwyer Avenue Liberty, New York 12754	12/31/2017
Suzanne Loughlin	492 Old Sackett Road Rock Hill, New York 12775	12/31/2016
Sean Rieber	P.O. Box 1084 Rock Hill, New York 12775	12/31/2018
Carol Roig	7 Harder Road Barryville, New York 12729	12/31/2017
Howard Siegel	25 Lake Louise Marie Road, P.O. Box 309 Rock Hill, New York 12775	12/31/2016
Paul Guenther	146 Central Park West New York, New York 10023	12/31/2018
Scott Smith	22 Summitt Drive Yulan, New York 12792	12/31/2017

FOURTEENTH: The duration of the Corporation shall be perpetual.

FIFTEENTH: The Corporation shall indemnify each Member, each Director, each officer, and, to the extent authorized by the Board of Directors, each other person authorized to act for the Corporation or on its behalf, to the full extent to which indemnification is permitted under the Not-For-Profit Corporation Law.



SIXTEENTH: The Secretary of State of the State of New York State is designated as agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is as follows: THE SULLIVAN COUNTY LOCAL DEVELOPMENT CORPORATION, 1 Cablevision Center, Ferndale, New York 12734.

SEVENTEENTH: The By-laws of the Corporation may be adopted, amended or repealed by a majority of the Directors of the Corporation.

EIGHTEENTH: The Corporation will not do any of the following:

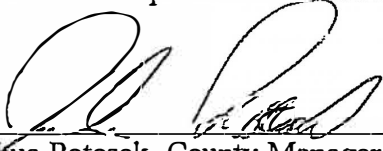
(a) Without the affirmative vote of all Members of the Corporation and the affirmative vote of a majority of the Directors, increase or decrease the number of Members of the Corporation or increase or decrease the number of Directors of the Corporation.

(b) Without the affirmative vote of a majority of the Directors of the Corporation and all of the Corporation's Members, (i) dissolve or liquidate, in whole or in part, or institute proceedings to be adjudicated bankrupt or insolvent, (ii) consent to the institution of bankruptcy or insolvency proceedings against it, (iii) file a petition seeking or consenting to reorganization or relief under any applicable federal or state law relating to bankruptcy or insolvency, (iv) consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Corporation or a substantial part of its property, (v) make a general assignment for the benefit of creditors, (vi) admit in writing its inability to pay its debts generally as they become due or (vii) take any corporate action in furtherance of the actions set forth in clauses (i) through (vi) of this paragraph.

(c) Without the affirmative vote of all of the Directors of the Corporation and all of the Corporation's Members, merge or consolidate with any other corporation, company or entity or, except to the extent contemplated by paragraph THIRD

hereof, sell all or substantially all of its assets or acquire all or substantially all of the assets or capital stock or other ownership interest of any other corporation, company or entity.

IN WITNESS WHEREOF, this Certificate of Incorporation has been subscribed this 28<sup>th</sup> day of January, 2016.

  
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Joshua Potosek, County Manager  
Sullivan County Government Center  
100 North Street  
Monticello, New York 12701

70239-012v8 1-25-2016

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OF

THE SULLIVAN COUNTY LOCAL DEVELOPMENT CORPORATION

(Under Section 1411 of the Not-For-Profit Corporation Law of the State of New York)

Filed by: GARIGLIANO LAW OFFICES, LLP  
449 Broadway, P.O. Drawer 1069  
Monticello, New York 12701