

**PRELIMINARY RESOLUTION
(Poughkeepsie Hospitality, LLC 2015 Project)**

A Regular meeting of the Dutchess County Industrial Development Agency was convened in public session on March 17, 2015 at 8:00 a.m., local time, at the office of the Dutchess County Industrial Development Agency, Three Neptune Road, Poughkeepsie, New York.

The meeting was called to order by the Chairman, with the following members being:

PRESENT: Charles Daniels, Chairman
Timothy Dean, Vice Chairman
Phyllis DiStasi Keenan, Secretary/Treasurer
Angela E. Flesland
Mark Doyle
Edward Summers
Alfred D. Torreggiani

ABSENT:

ALSO PRESENT: Catherine A. Maloney, Executive Director
Sarah Lee, Director of Business Development
Donald Cappillino, Counsel

On motion duly made by _____ and seconded by _____, the following resolution (the “**Resolution**”) was placed before the members of the Dutchess County Industrial Development Agency:

Resolution (i) Taking official action toward the issuance of financial assistance to Poughkeepsie Hospitality, LLC (Poughkeepsie Hospitality, LLC 2015 Project) in the form of potential exemption from sales and use taxes, and mortgage recording taxes; and (ii) authorizing the execution and delivery of an agreement by and between the Agency and Poughkeepsie Hospitality, LLC with respect to such financial assistance.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York as amended and Chapter 335 of the Laws of 1977 of the State of New York (collectively the “**Act**”), the Dutchess County Industrial Development Agency (the “**Agency**”) was created with the authority and power to provide financial assistance for the purpose of, among other things, acquiring, constructing and equipping certain facilities as authorized by the Act; and

WHEREAS, Poughkeepsie Hospitality, LLC, a Delaware limited liability company with offices at 269 Hanover Street, Suite 2, Hanover, Massachusetts, 02339 (the “**Company**”), has applied to the Agency for financial assistance (as defined herein) to finance the

acquisition, reconstruction, repair, refurbishing, installation, furnishing and equipping of a certain facility (the “**Facility**”) consisting of: (i) the acquisition by the Company consisting of a 90,000 square foot, 4 story, 121room hotel building located at 2750 South Road, Town of Poughkeepsie, New York bearing Tax Map Grid No. 134689-6161-03-075130-0000 (the “**Building**”) on approximately 3.8 acres of land (the “**Land**”) to be subleased by the Agency to the Corporation; and (ii) the acquisition and installation of new furniture, furnishings, fixtures, equipment, machinery and other personal property (collectively the “**Equipment**”) to be owned by the Agency and leased to the Company (the “**Equipment**”) to be used as part of the operation the Facility, to be owned by the Agency and leased to the Company to be used as part of the operation (collectively, the “**Project**”); and

WHEREAS, the Facility and Equipment includes the following, as they relate to the construction, erection and completion of such Facility, whether or not any materials or supplies described below are incorporated into or become an integral part of such Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with construction of the Facility; and (ii) purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with construction of the Facility and installation of the Equipment; and

WHEREAS, the Agency has given due consideration to the application submitted by the Company, in which it is represented by the Company that the financial assistance (as defined herein) for the Facility will not result in the abandonment of a facility of the Company located elsewhere in the State of New York; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted by the Department of Environmental Conservation of the State of New York (the laws and regulations hereinafter collectively referred to as “**SEQRA**”), the Agency is required to determine whether the financial assistance (as defined herein) for the Facility may have a significant effect on the environment and therefore require the preparation of an Environmental Impact Statement; and

WHEREAS, the Company has submitted to the Agency, along with its March 10, 2015 Application (the “**Application**”) a Short Environmental Assessment Form, dated March 10, 2015, indicating that the Project consists of the repair, renovation or rehabilitation of the Facility on the same site involving no substantial change to the existing structure and is therefore a Type II action under 6 NYCRR 617.5(c)(1) and (2) and therefore will have no significant adverse environmental impact; and

WHEREAS, the proposed financial assistance to be granted by the Agency to the Company consists of the exemption from sales and use taxes, and mortgage recording taxes (the “**Financial Assistance**”) which is consistent with the Agency’s Uniform Tax Exemption Policy (the “**Policy**”); and

WHEREAS, the Company has also submitted to the Agency, along with its Application the February 23, 2015 report of Fairweather Consulting of New Paltz, New York,

showing that the Facility is a tourist destination facility as set forth in NY General Municipal Law Section 862(2)(a); and

WHEREAS, the Agency has not yet held hearings pursuant to §859-a of Article 18-A of the General Municipal Law of the State of New York; and

WHEREAS, although the resolution authorizing the Financial Assistance has not yet been presented for approval by the Agency, a Preliminary Agreement relative to the proposed Financial Assistance has been presented for approval by the Agency.

NOW, THEREFORE, BE IT RESOLVED by the Dutchess County Industrial Development Agency, as follows:

1. Based upon the representations made by the Company to the Agency, the Agency hereby finds and determines that:

- (a) The Facility constitutes a “project” within the meaning of the Act;
- (b) The Financial Assistance for the Facility will not result in the abandonment of a facility of the Company;
- (c) The Financial Assistance for the Facility is consistent with Policy;
- (d) The Financial Assistance will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of Dutchess County, New York, and improve their standard of living, and thereby serve the public purposes of the Act;
- (e) The Project is a Type II action under 6 NYCRR 617.5(c)(1) and (2) and therefore will have no significant adverse environmental impact; and
- (f) It is desirable and in the public interest for the Agency to assist the Company by granting the Financial Assistance.

2. Subject to the conditions set forth in ¶3 of this Resolution, the Agency will:

- (a) acquire a leasehold interest in the Facility; and
- (b) sublease the Facility to the Company and lease the Equipment to the Company pursuant to agreements by and between the Agency and the Company.

3. The provision of Financial Assistance herein, as contemplated by ¶2 of this Resolution, shall be subject to:

- (a) the execution and delivery by the Company of the Preliminary Agreement attached hereto as Exhibit "A" setting forth certain conditions for the provision of the Financial Assistance.

4. The form and substance of a proposed Preliminary Agreement (in substantially the form presented to this meeting) by and between the Agency and the Company setting forth the undertakings of the Agency and the Company with respect to the provision of Financial Assistance is hereby approved. The Executive Director of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Preliminary Agreement and the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency hereto and to attest to this meeting, with such changes in terms and conditions as the Executive Director shall constitute conclusive evidence of such approval.

5. The Company is hereby appointed the true and lawful agent of the Agency (i) to acquire the Facility; and (ii) to make, execute, acknowledge, and deliver any contracts, orders, receipts, writings, and instructions, as the designated agent for the Agency, and in general to do all things which may be requisite or proper for the acquisition, improvement, construction, reconstruction, renovation, installation, furnishing and equipping of the Facility.

6. Counsel to the Agency is hereby authorized to work with counsel to the Company and others to prepare for submission to the Agency, all documents necessary to effect the authorization and provision of Financial Assistance. The Company shall be responsible for the fees of Agency and Agency's Counsel in relation to this Project and the provision of Financial Assistance.

7. The Agency hereby authorizes the Chairman of the Agency, prior to the granting of any Financial Assistance with respect to the Project, after consultation with counsel to the Agency, (i) to establish the time, date and place for a public hearing of the Agency to hear all person interested in the Project and the proposed Financial Assistance being contemplated by the Agency with respect to the Project, said public hearing to be held in the Town of Poughkeepsie, Dutchess County, New York; (ii) to cause notice of such public hearing to be given to the public by publishing a notice in accordance with the applicable provisions of the N.Y. General Municipal Law, as well as, at the same time, provide notice of the hearing to the chief executive officer of each affected tax jurisdiction; (iii) to conduct such public hearing or cause such hearing to be conducted by his designee; and (iv) to cause a stenographic transcript of said public hearing to be promptly prepared and cause copies of said report to be made available to the member of the Agency.

8. The Executive Director of the Agency is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution. The Agency hereby appoints each Member of the Agency and the Agency Counsel to serve as an Assistant Secretary of the Agency for purposes of this project.

9. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to vote on roll call, which resulted as follows:

Charles Daniels III, Chairman	VOTING
Timothy Dean	VOTING
Phyllis DiStasi Keenan, Secretary/Treasurer	VOTING
Angela E. Flesland	VOTING
Edward Summers	VOTING
Mark Doyle	VOTING
Alfred D. Torreggiani	VOTING

The Resolution was thereupon declared duly adopted.

Adopted: March 17, 2015

PRELIMINARY AGREEMENT
(Poughkeepsie Hospitality, LLC 2015 Project)

THIS PRELIMINARY AGREEMENT (the “Preliminary Agreement”), made as of March 17, 2105 between the **DUTCHESS COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation, organized and existing under the General Municipal Law of the State of New York, having offices at Three Neptune Road, Poughkeepsie, New York 12601 (the “**Agency**”), and **POUGHKEEPSIE HOSPITALITY, LLC**, a Delaware Limited Liability Company having offices at 269 Hanover Street, Suite 2, Hanover, Massachusetts, 02339 (the “**Company**”).

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York as amended and Chapter 335 of the Laws of 1977 of the State of New York (collectively the “**Act**”), the Dutchess County Industrial Development Agency (the “**Agency**”) was created with the authority and power to provide financial assistance for the purpose of, among other things, acquiring, constructing and equipping certain facilities as authorized by the Act; and

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York as amended and Chapter 335 of the Laws of 1977 of the State of New York (collectively the “**Act**”), the Dutchess County Industrial Development Agency (the “**Agency**”) was created with the authority and power to provide financial assistance for the purpose of, among other things, acquiring, constructing and equipping certain facilities as authorized by the Act; and

WHEREAS, Poughkeepsie Hospitality, LLC, a Delaware limited liability company with offices at 269 Hanover Street, Suite 2, Hanover, Massachusetts, 02339 (the “**Company**”), has applied to the Agency for financial assistance (as defined herein) to finance the acquisition, reconstruction, repair, refurbishing, installation, furnishing and equipping of a certain facility (the “**Facility**”) consisting of: (i) the acquisition by the Company consisting of a 90,000 square foot, 4 story, 121 room hotel building located at 2750 South Road, Town of Poughkeepsie, New York bearing Tax Map Grid No. 134689-6161-03-075130-0000 (the “**Building**”) on approximately 3.8 acres of land (the “**Land**”) to be subleased by the Agency to the Corporation; and (ii) the acquisition and installation of new furniture, furnishings, fixtures, equipment, machinery and other personal property (collectively the “**Equipment**”) to be owned by the Agency and leased to the Company (the “**Equipment**”) to be used as part of the operation the Facility, to be owned by the Agency and leased to the Company to be used as part of the operation (collectively, the “**Project**”); and

WHEREAS, the Facility and Equipment include the following, as they relate to the construction, erection and completion of such Facility, whether or not any materials or supplies described below are incorporated into or become an integral part of such Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with construction of the Facility; and (ii) purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with construction of the Facility and installation of the Equipment; and

WHEREAS, the proposed financial assistance to be granted by the Agency to the Company consists of the exemption from sales and use taxes and mortgage recording taxes (the “**Financial Assistance**”) which is consistent with the Dutchess County Uniform Tax Exemption Policy (the “**Policy**”),; and

WHEREAS, the Agency has not yet held hearings pursuant to pursuant to §859-a of Article 18-A of the General Municipal Law of the State of New York; and

WHEREAS, although the resolution authorizing the Financial Assistance has not yet been presented for approval by the Agency, a Preliminary Agreement relative to the proposed Financial Assistance has been presented for approval by the Agency.

WHEREAS, the Agency has determined that the financing of the Facility will promote and further the purposes of the Act; and

WHEREAS, on March 17, 2015, the Agency adopted a Preliminary Resolution (the “**Preliminary Resolution**”) authorizing the Facility and the execution of this Preliminary Agreement; and

WHEREAS, in the Preliminary Resolution the Agency appointed the Company its agent for the purposes of financing the Facility and doing all things requisite and proper for completing the Facility.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Agency and the Company agree as follows:

1. Undertakings of the Agency. Based upon the statements, representations, and undertakings of the Company and subject to the conditions set forth herein and in the Preliminary Resolution, the Agency agrees as follows:

(a) The Agency shall adopt, or cause to be adopted, such proceedings and authorize the execution of such documents as may be necessary or advisable for (i) the acquisition, reconstruction, repair, refurbishing, installation, furnishing and equipping of the Facility; and (ii) the leasing or sale of the Facility to the Company, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company.

(b) The Agency shall enter into an agreement to lease the Facility to the Company (the “**Lease Agreement**”). The Lease Agreement shall contain all provisions required by law and such other provisions as shall be mutually acceptable to the Agency and the Company.

(c) The Agency shall take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

2. Representations of the Company. The Company hereby represents to the Agency that:

- (a) The Facility is located in the Dutchess County, New York;
- (b) The proposed financing of the Facility will contribute to increased employment opportunities in Dutchess County, New York;
- (c) The Company intends that the Facility will comply with all applicable federal, state, and local laws, ordinance, rules, and regulations and the Company shall have obtained all necessary approvals and permits required thereunder.

3. Undertakings of the Company. Based upon the statements, representations, and undertakings of the Agency and subject to the conditions set forth herein and in the Preliminary Resolution, the Company agrees as follows:

(a) The Company shall use all reasonable efforts necessary or desirable to enter into a contract or contracts for the acquisition of the Facility and on the terms and conditions set forth in the Lease Agreement, transfer to the Agency, or cause to be transferred to the Agency, title to the Facility.

(b) (i) The Company shall defend and indemnify the Agency and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on: (1) labor, services, materials and supplies, including equipment, ordered or used in connection with the acquisition of the Facility (including any expense incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing), whether such claims or liabilities arise as a result of the Company acting as agents for the Agency pursuant to this Preliminary Agreement or otherwise; or (2) any untrue statement or alleged untrue statement of a material fact necessary in order to make the statements herein, in the light of the circumstances under which they were made, not misleading.

(ii) The Company shall not permit to stand, and shall at its own expense take all steps reasonably necessary to remove, any mechanic's or other liens against the Facility for labor for the acquisition, constructing, furnishing, equipping, improving and renovating of the Facility.

(iii) The Company shall indemnify and hold the Agency harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation to the Facility, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing, except that the Company shall not be required to indemnify the Agency for the willful or grossly negligent conduct of the Agency.

(c) The Company shall, as agent for the Agency, comply with the requirements of Article 8 of the Labor Law of the State of New York, as amended, to the extent, if any, such Article is applicable to the Facility.

(d) The Company shall take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

4. General Provisions.

(a) This Preliminary Agreement shall take effect on the date of execution hereof until the Lease Agreement becomes effective. It is the intent of the Agency and the Company that this Preliminary Agreement be superseded in its entirety by the Lease Agreement.

(b) It is understood and agreed by the Agency and the Company that the execution of the Lease Agreement and related documents are subject to: (i) obtaining all necessary governmental approvals; and (ii) approval of the members of the Agency.

(c) The Company agrees that it will reimburse the Agency for all reasonable and necessary direct out-of-pocket expenses which the Agency may incur as a consequence of executing this Preliminary Agreement or performing its obligations hereunder, including but not limited to, the cost of causing a notice of any public hearing held with respect to the Facility to be published, the cost of making and transcribing records of said hearings and the reasonable fees and expenses charged and incurred by Agency's Counsel in connection with their representation of Agency in this matter and their preparation of any documents pertaining to the provisions of Financial Assistance.

(d) All commitments of the Agency under Paragraph 1 hereof and of the Company under Paragraphs 2 and 3 hereof (excepting the obligations of the Company set forth in subparagraphs 3(b) and 4(c) hereof, which shall survive the termination of this Preliminary Agreement) are subject to the condition that the Lease Agreement shall have been executed no later than fifteen (15) months from the date hereof (or such other date as shall be mutually satisfactory to the Agency and the Company).

IN WITNESS WHEREOF, the parties hereto have entered into this Preliminary Agreement as of the 17th day of March, 2015.

DUTCHESS COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Catherine A. Maloney, Executive Director

POUGHKEEPSIE HOSPITALITY, LLC

By: _____
Lawrence Kasser, Authorized Agent