

RESOLUTION
(CLP Darien Lake, LLC Project)

A regular meeting of Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Thursday, March 7, 2013.

The following resolution was duly offered and seconded, to wit:

Resolution No. 03/2013 - 04

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (i) ACKNOWLEDGING THE PUBLIC HEARING AND AUTHORIZING FINANCIAL ASSISTANCE IN EXCESS OF \$100,000 WITH RESPECT TO CLP DARIEN LAKE, LLC PROJECT (AS MORE FULLY DESCRIBED BELOW) AND (ii) AUTHORIZING THE EXECUTION AND DELIVERY OF THE LEASE AGREEMENT, LEASEBACK AGREEMENT AND PAYMENT-IN-LIEU-OF-TAX-AGREEMENT AND RELATED DOCUMENTS

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 565 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the "Act"), the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (hereinafter called "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **CLP DARIEN LAKE, LLC**, for itself or on behalf of an entity to be formed (the "Company") previously submitted an application (the "Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition (or retention) of title to, or a leasehold interest in, a parcel of land located at 9993 Alleghany Road in the Town of Darien, Genesee County, New York (the "Land"), (ii) the construction and equipping on the Land of (A) a "Blast Off" ride located in the Waterfront Boardwalk area of the Company's existing theme park; (B) upgrades to the "Laser Blast Show", including upgrades in water technology, pyrotechnics and 60' water screen; and (C) an expansion to the Company's existing accommodations area, including multi-family rental units (collectively, the "Improvements"), (iii) the acquisition in and around the Improvements of certain items of equipment and other tangible personal property (the "Equipment," and collectively with the Land and the Improvements, the "Facility"); and

WHEREAS, by resolution adopted on February 7, 2013 (the "Inducement Resolution"), the Agency (i) authorized the Company to act as its agent to acquire, construct and equip the Project, *provided, however*, that the Financial Assistance (as defined in the Inducement Resolution) provided by the Agency to the Company would not exceed \$100,000 until a public

hearing was held in compliance with the Act and a subsequent resolution was adopted by the Agency, (ii) satisfied the applicable requirements of the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), and (iii) directed that a lease agreement (or amendment to an existing lease agreement between the Agency and the Company) (the "Lease Agreement"), leaseback agreement (or amendment to an existing leaseback agreement between the Agency and the Company) (the "Leaseback Agreement"), and payment-in-lieu-of-tax agreement (or amendment to an payment-in-lieu-of-tax agreement between the Agency and the Company) (the "PILOT Agreement") and related documents be negotiated; and

WHEREAS, pursuant to General Municipal Law Section 859-a, on March 1, 2013, at 4:00 p.m., at Darien Town Hall, 10569 Allegheny Road, Darien Center, New York, the Agency held a public hearing with respect to the Project and the proposed Financial Assistance being contemplated by the Agency (the "Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. A copy of the minutes of the Public Hearing along with the notice of the Public Hearing published and forwarded to the affected taxing jurisdictions at least ten (10) days prior to said Public Hearing are attached hereto as Exhibit A; and

WHEREAS, the Agency desires to adopt a resolution acknowledging that the Public Hearings was held in compliance with the Act and authorizing Financial Assistance (as defined in the Inducement Resolution) to the Company in excess of \$100,000; and

WHEREAS, the Lease Agreement, Leaseback Agreement, PILOT Agreement and related documents have been negotiated and are presented to this meeting for approval and execution.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE AGENCY AS FOLLOWS:

Section 1. The Public Hearing held by the Agency on March 1, 2013, concerning the Project and the Financial Assistance was duly held in accordance with the Act, including but not limited to the giving of at least ten (10) days published notice of the Public Hearing (such notice also provided to the Chief Executive Officer of each affected tax jurisdiction), affording interested parties a reasonable opportunity, both orally and in writing, to present their views with respect to the Project.

Section 2. The Agency is hereby authorized to provide Financial Assistance (as defined in the Inducement Resolution) to the Company in excess of \$100,000.

Section 3. The Chairman, Vice Chairman and/or the President/CEO of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Lease Agreement, Leaseback Agreement, PILOT Agreement and related documents with such changes as shall be approved by the Chairman, Vice Chairman and/or the President/CEO and counsel to the Agency upon execution.

Section 4. 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 and to execute and deliver all such 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 resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 5. These Resolutions 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:

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>	
John F. Andrews	[X]	[]	[]	[]	via Skype
James L. Vincent	[X]	[]	[]	[]	
Wolcott T. Hinchey	[]	[]	[X]	[]	
Charlie Cook	[X]	[]	[]	[]	
Mary Ann E. Wiater	[X]	[]	[]	[]	
Rochelle M. Stein	[X]	[]	[]	[]	
John Rizzo	[X]	[]	[]	[]	

The Resolutions were thereupon duly adopted.

CERTIFICATION

STATE OF NEW YORK)
COUNTY OF GENESEE) ss.:

I, the undersigned, Secretary of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, DO HEREBY CERTIFY:


That I have compared the annexed extract of minutes of the meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency"), including the resolution contained therein, held on March 7, 2013, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this 7th day of March, 2013.



Secretary



NOTICE LETTER

February 14, 2013

To: Attached Distribution List

Re: Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center and CLP Darien Lake, LLC (Blast Off / Laser Blast Project 2013) Public Hearing

Ladies and Gentlemen:

On Friday, March 1, 2013, at 4:00 p.m., at Darien Town Hall, 10569 Allegheny Road, Darien Center, New York 14040, the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") will conduct a public hearing regarding the above-referenced project. Attached is a copy of the Notice of Public Hearing describing the project and the financial assistance contemplated by the Agency. The Notice has been submitted to *The Daily News* for publication.

You are welcome to attend such hearing at which time you will have an opportunity to review the project application and present your views, both orally and in writing, with respect to the project. We are providing this notice to you, pursuant to General Municipal Law Section 859-(a), as the chief executive officer of an affected tax jurisdiction within which the project is located.

Very truly yours,

**GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY d/b/a
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER**

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") on Friday, March 1, 2013, at 4:00 p.m. local time, at Darien Town Hall, 10569 Allegheny Road, Darien Center, New York 14040, in connection with the following matter:

CLP Darien Lake, LLC, for itself or on behalf of an entity to be formed (the "Company"), has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition (or retention) of title to, or a leasehold interest in, a parcel of land located at 9993 Allegheny Road in the Town of Darien, Genesee County, New York (the "Land"), (ii) the construction and equipping on the Land of (A) a "Blast Off" ride located in the Waterfront Boardwalk area of the Company's existing theme park; (B) upgrades to the "Laser Blast Show", including upgrades in water technology, pyrotechnics and 60' water screen; and (C) an expansion to the Company's existing accommodations area, including multi-family rental units (collectively, the "Improvements"), and (iii) the acquisition in and around the Improvements of certain items of equipment and other tangible personal property (the "Equipment," and collectively with the Land and the Improvements, the "Facility").

The Agency will acquire (or retain) title to, or a leasehold interest in, the Facility and lease the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the Company will purchase the Facility from the Agency, or if the Agency holds a leasehold interest, the leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company in the form of sales and use tax exemptions and a mortgage recording tax exemption, consistent with the policies of the Agency, and a partial real property tax abatement.

A representative of the Agency will be at the above-stated time and place to present a copy of the Company's project Application (including a cost-benefit analysis) and hear and accept written and oral comments from all persons with views in favor of or opposed to or otherwise relevant to the proposed Financial Assistance.

Dated: February 15, 2013

By:

GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY D/B/A
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER

DISTRIBUTION LIST

Genesee County Manager
Genesee County Courthouse
7 Main Street
Batavia, New York 14020

Town Supervisor
Darien Town Hall
10569 Allegheny Road
Darien Center, New York 14040

Chair of Genesee County Legislature
Genesee County Courthouse
7 Main Street
Batavia, New York 14020

Pembroke Central School District
Attn: Superintendent
PO Box 308
Routes 5 and 77
Corfu, New York 14036



**Economic
Development Center**

Report of the Genesee County Industrial Development Agency d/b/a/ Genesee County Economic Development Center Public Hearing of CLP Darien Lake, LLC held on Friday, March 1, 2013, 4:00 PM – Darien Town Hall, 10569 Alleghany Road, Darien Center, New York

I. ATTENDANCE

Chris Suozzi, Vice President of Business Development, Genesee County EDC
Penny Kennett, Office Manager, Genesee County EDC
Bob Montgomery, CLP Darien Lake, LLC
David Hagelberger, Darien Town Supervisor
Marcia Hagelberger, Town of Darien Resident
Michael Plitt, Town of Darien Councilman

II. CALL TO ORDER

The public hearing of CLP Darien Lake, LLC was called to order at 4:00 pm at the Darien Town Hall.

A notice of this public hearing describing the project was published in the Batavia Daily News, a copy of which is attached and is an official part of this transcript. The notice of public hearing was read to attendees.

III. PROJECT SUMMARY

C. Suozzi described the project as follows:

Darien Lake is investing \$5.2 million into new park attractions and construction of new accommodations. Specifically they would like to construct new cabins/ accommodations for multi-family units, and install a new "launch ride" and laser light attraction. These upgrades will help Darien Lake add an additional six (full time equivalent) employees to their organization over the next three years after completion of their project. These additional six employees will bring Darien Lake's annual full time equivalent employees to 428. Of the \$5.2 million investment Darien Lake would like assistance on \$2.52 million worth of investment. The GCEDC is seeking to assist the project with a sales tax exemption in the amount of \$181,600 and property tax abatement based on the increase in assessed value estimated at \$147,339.

Darien Lake History:

Darien Lake provides over 400 full time equivalent jobs with an estimated annual payroll of \$11 million. Furthermore, Darien Lake generates approximately \$2.5 million in revenues to local governments and school districts annually via property tax and sales taxes generated from the park.

Darien Lake was acquired by CNL Properties, a lifestyles properties real estate investment trust from Jacksonville, FL, in 2007. Darien Lake continues to be a major employer and economic contributor here in Genesee County and has made significant investments in our community despite an incredibly challenging economy. They remain one of the largest economic drivers in Genesee County and hire as many as 2,000 seasonal employees.

IV. COMMENTS

Mr. Suozzi accepted the following comments from attendees:

Michael Plitt first thanked Bob Montgomery and Darien Lake for their investments in Darien. He then said that he would not be representing the Town of Darien residents well without discussing the cost verse the benefit of having Darien Lake located in the Town of Darien. He mentioned that he was concerned that they did not receive any of the mortgage tax proceeds and that because much of the property has a PILOT on it they are unable to receive their full share of the sales tax generated in Genesee County.

Bob Montgomery commented that it is in the Town of Darien's best interest and they will receive the best value from Darien Lake if investments are being made and the Park grows and attendance increases. If investments are not made less people will visit the Park resulting in less income for the Town of Darien.

Mr. Montgomery also commented that changes are being made to the concert venue. They are increasing their capital investments, increasing their security presence, they put up a fence to control people coming into the parking lot, they are taking a second look at the types of acts that are performing and they are looking into sound issues.

Mr. Plitt mentioned that criminal cases actually cost the Town money; it is not a revenue generator like speeding tickets. Funds generated from criminal cases are sent to the state, so it actually costs the Town money to prosecute criminal offenders.

Mr. Montgomery added that he wished that criminal offenders could be treated tougher as he feels like they are "bluffing" in a lot of cases because not a lot is done or can be done. They do hope that as the word gets out that this type of behavior will not be tolerated that there will be less criminal arrests made. Other changes are being discussed to combat under aged drinking, tail gating, drinking in the parking lots and changes to the entrance and exits of the parking lots are being looked at.

He mentioned that they are starting to bring local venues into the park like Anchor Bar buffalo wings and Webber mustard and that a major ride attraction is planned for 2014.

Mr. Montgomery sees the most growth from people who stay overnight verses the day visitors. In 2016 Darien Lake will be sold and in the end he hopes that we can work together to ensure that the Town of Darien has the right operator for Darien Lake that will offer stability. The Park will not be stable unless investments are being made.

Dave Hagelberger noted that Darien Lake should see a reduction in their County taxes as they were able to send the County \$50,000 to help reduce taxes for the Town of Darien residence and businesses.

V. ADJOURNMENT

The public hearing was closed at 4:58 PM

