



## MINUTES

June 20, 2019

**Herkimer County Industrial Development Agency Board of Directors Regular Meeting held at the Herkimer County Industrial Development Agency Office, 420 E. German Street, Suite 101A, Herkimer, NY 13350.**

### STAFF

JOHN J. PISECK, JR.  
Executive Director

STACEY J. HOLLERAN  
Office Manager

VICTORIA L. ADAMS  
Administrative Assistant

### BOARD OF DIRECTORS

VINCENT J. BONO  
Chairman

DAVID M. CHLUS  
Vice Chairman

JOHN SCARANO  
Secretary

MICHAEL WERENCZAK  
Treasurer

CORY ALBRECHT  
Director

CATHERINE RICCI  
Director

After the Pledge of Allegiance, Chairman V. James Bono called the meeting to order at 8:06 AM.

**The following members answered the roll call:** Vincent (Jim) Bono, David Chlus, Daniel Reardon, Cory Albrecht, Catherine (Cate) Ricci, and Michael Werenczak. Quorum Present.

**Members Absent:** John Scarano

**Staff Present:** John Piseck, Stacey Holleran, Victoria Adams

**Also Present:** Bernard Peplinski

**Sexual Harassment Prevention Training – Part 1:** Board members and employees were provided with a copy of the Agency's Sexual Harassment Prevention Policy as well as a copy of the complaint form for reporting sexual harassment. Part 1 of the 2 part sexual harassment prevention training was completed by attending members and employees. Part 1 of the training consisted of watching part 1 of the sexual harassment and prevention video with a question and answer period following. The members and employees signed an acknowledgment form stating that they received the policy and that it is their responsibility to be familiar with and conform to the procedures contained in the policy, as well as complete the necessary yearly training. Board Members and employees are required to complete part 2 of the sexual harassment prevention training on their own. Part 2 of the training consists of a second video and acknowledgement form to be completed and filled out by the next board meeting.

**Minutes:** The minutes of the following board meetings were offered for review: May 28, 2019 Regular Meeting and May 28, 2019 Public Hearing (Little Falls Solar 1, LLC). **Michael Werenczak moved, seconded by Cory Albrecht to approve presented minutes. Motion Carried.**

**Financial Reports:** The following financial reports were offered for review and approval: 2019 May Operating Report, Operating Account, Account Balances, RLF payment status. **Cate Ricci moved, seconded by Cory Albrecht to approve all financial reports as presented. Motion Carried.**

**Manheim Business Park:** Mr. Piseck stated that the water and sewer studies for the Manheim Business Park have been completed. The Village of Dolgeville Board of Trustees will need to make a decision about whether the village will supply water and sewer service to the Manheim Business Park. The IDA will not be moving forward with development of the park until a commitment is made by the Village. There is grant money available.

**420 E. German Street, Box 1 Suite 101A, Herkimer, NY 13350 315-866-3000**

"This institution is an equal opportunity provider, employer and lender."

**Mohawk Hospital Equipment:** The proposed Authorizing Resolution was presented to board members prior to the meeting. After further review and discussion, **Catherine (Cate) Ricci offered the following motion:**

**RESOLUTION AUTHORIZING THE AGENCY TO EXECUTE ALL RELEVANT CLOSING DOCUMENTS WITH RESPECT TO THE ACQUISITION OF AN INTEREST IN THE REAL PROPERTY SITUATE IN THE CITY OF LITTLE FALLS, COUNTY OF HERKIMER AND STATE OF NEW YORK AND THE PERSONAL PROPERTY TO BE ACQUIRED AND LOCATED THEREAT (the “Facility”) THROUGH LEASE AGREEMENT, LEASING SAID FACILITY BACK TO THE COMPANY THROUGH SALES AND MORTGAGE TAX EXEMPTIONS; TO ADDRESS ENVIRONMENTAL ISSUES AND TO PROVIDE FOR INDEMNIFICATION OF THE AGENCY ON SUCH ISSUES RELATING TO THE PROJECT THROUGH THE EXECUTION OF AN ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT WITH THE COMPANY (the “ECIA”); TO ENTER INTO A RECAPTURE AGREEMENT; TO ENTER INTO A PAYMENT IN LIEU OF TAX AGREEMENT; AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE PROJECT.**

**Seconded by Cory Albrecht, the motion carried with 6 ayes and 0 nays. The official resolution is attached to the original minutes.**

**Old Forge Properties dba Enchanted Forest Water Safari:** Mr. Piseck discussed setting a public hearing for Old Forge Properties dba Enchanted Forest Water Safari. The IDA will be assisting Old Forge Properties in applying for out of cycle grant funds through the Empire State Development to assist in the replacement of two aging slides and the addition of a new slide in the park. The date of the public hearing will be forthcoming. **Michael Werenczak moved, seconded by Catherine (Cate) Ricci to authorize the IDA to set a public hearing. Motion carried.**

**Little Falls Solar, LLC (Town of LF):** An application was provided to the board for review and consideration for a solar project in the Town of Little Falls.

**The following resolution was offered by Cate Ricci and seconded by David Chlus with members voting:**

<u>AYE</u>	<u>NAY</u>	<u>Abstain</u>
Bono, Albrecht, Chlus, Ricci, Werenczak	None	Reardon

**RESOLUTION OF THE HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the “AGENCY”) TAKING OFFICIAL ACTION TOWARD APPOINTING LITTLE FALLS SOLAR, LLC (the “COMPANY), AND THE PRINCIPALS OF THE COMPANY, AS AGENT OF THE AGENCY IN CONNECTION WITH A SUBLEASE-LEASEBACK TRANSACTION, AUTHORIZING THE EXECUTION AND DELIVERY OF**

**AN INDUCEMENT AGREEMENT AND MAKING CERTAIN FINDINGS  
AND DETERMINATIONS WITH RESPECT TO THE PROJECT.**

The official resolution is attached to the original minutes.

**Brownfield Public Outreach Meeting:** As a requirement of the EPA Brownfield Assessment grant, the Agency is required to hold a Public Outreach Meeting which has been scheduled for July 23, 2019 at 6:00 PM at Herkimer County Community College. The purpose is to inform the public on what a brownfield is and provide a list of properties the Agency will potentially seek for redevelopment or reuse.

**Project Updates/Other Business:**

*Frankfort 55 South Business Park:* Mr. Piseck recently had a meeting with Tractor Supply Company to discuss water runoff issues with cul-de-sac flooding. The company acknowledged the issues and the water issues are expected to be fixed by the end of the year.

*IPAD 2019 Marketing:* Mohawk Valley EDGE, in partnership with the Agency, is moving ahead National Grid Marketing & Site Development Program which includes the Schuyler Business Park.

*Schuyler Business Park:* There is a small issue pertaining to the land survey of the Windecker parcel. The Agency attorney ascertained an issue regarding the ownership of the road leading into the park. These issues will be resolved within a couple of weeks and the IDA will move forward.

*Duofold Site:* Mr. Piseck recently attended a Redevelopment Summit in Albany where he had the opportunity to present the Duofold Site to developers from around the country. Mr. Piseck stated that two developers have already reached out for additional information on the site. The Agency will be attending a food truck night hosted by the Village of Ilion to survey the residents on what they would like to potentially see be developed at the site.

*Eastern Mohawk Valley Regional Water Transmission Main:* The Agency has received a Memorandum of Understanding and a Resolution of Support from the Town of Herkimer, Village of Herkimer, Town of Schuyler, and Village of Ilion providing support for the Agency to lead the Municipal Restructuring Fund. Mr. Piseck will be attending a meeting of the Village of Frankfort on Thursday evening to discuss the fund with members of the Village and to obtain their Memorandum of Understanding and Resolution of support.

*New York State Senate Investigations and Government Operations Committee:* The New York State Senate Investigations and Governance Operations Committee requested documents and information relating to the Agency's compliance with the Public Authorities Reform Act ("PARA"). The Agency complied with the request by producing all responsive documents, records, data, or information within the required timeline.

Bernard Peplinski exited the meeting at 9:19 AM.

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**Executive Session:** David Chlus moved, seconded by Daniel Reardon, to enter into executive session to discuss proposed land acquisition. Motion Carried. All board members, John Piseck, Stacey Holleran, and Victoria Adams were invited to stay.

Cate Ricci moved, seconded by Michael Werenczak to end executive session at 9:41 A.M.

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Being no other business, Cate Ricci moved, seconded by Michael Werenczak to adjourn at 9:42 A.M.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Victoria Adams". The signature is written in a cursive, flowing style.

Victoria Adams  
Administrative Assistant

## AUTHORIZING RESOLUTION

At a meeting of the Herkimer County Industrial Development Agency, Herkimer County, New York (the "Agency"), held at 420 E. German Street, Herkimer, New York on the 20<sup>th</sup> day of June, 2019 at 8:00 a.m., the following members of the Agency were:

Present: Vincent J. Bono, David Chlus, Cory Albrecht, Dan Reardon, Michael Werenczak, Catherine Ricci

Absent: John Scarano

Also Present: John Piseck, Stacey Holleran, Victoria Adams, Bernard Peplinski

After the meeting had been duly called to order, the Chairman announced that the purpose of the meeting was to consider and take action on certain matters pertaining to Mohawk Hospital Equipment, Inc. (the "Company").

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

AYE

NAY

ABSTAINED

\*ALL

\*NONE

\*NONE

RESOLUTION AUTHORIZING THE AGENCY TO EXECUTE ALL RELEVANT CLOSING DOCUMENTS WITH RESPECT TO THE ACQUISITION OF AN INTEREST IN THE REAL PROPERTY SITUATE IN THE CITY OF LITTLE FALLS, COUNTY OF HERKIMER AND STATE OF NEW YORK AND THE PERSONAL PROPERTY TO BE ACQUIRED AND LOCATED THEREAT (the "Facility") THROUGH LEASE AGREEMENT, LEASING SAID FACILITY BACK TO THE COMPANY THROUGH SALES AND MORTGAGE TAX EXEMPTIONS; TO ADDRESS ENVIRONMENTAL ISSUES AND TO PROVIDE FOR INDEMNIFICATION OF THE AGENCY ON SUCH ISSUES RELATING TO THE PROJECT THROUGH THE EXECUTION OF AN ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT WITH THE COMPANY (the "ECIA"); TO ENTER INTO A RECAPTURE AGREEMENT; TO ENTER INTO A PAYMENT IN LIEU OF TAX AGREEMENT; AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE PROJECT.



WHEREAS, Mohawk Hospital Equipment, Inc., on behalf of itself and/or the principals of Mohawk Hospital Equipment, Inc. (the "Company") has applied to the Herkimer County Industrial Development Agency (the "Agency") to enter into a transaction relating to the acquisition, construction and equipping of complete warehouse and medical distribution facility and office space on a parcel of land located at 25 Riverside Industrial Park Drive, Little Falls, New York 13365, Herkimer County (the "Land"), and the acquisition and installation of equipment in the Improvements, all to be used by the Company in connection with providing a complete warehouse, medical distribution facility and office space in support of Mohawk Hospital Equipment, Inc. (the Land, Improvements and Equipment) are referred to collectively as the "Facility" and the construction and equipping of the Improvements is referred to as (the "Project"); and

WHEREAS, the Company will lease the Facility to the Agency, pursuant to Article 18-A of the General Municipal Law of the State of New York, and Chapter 372 of the Laws of 1970 of the State of New York, as may be amended from time to time (collectively the "Act") and the Agency will lease the Facility back to the Company pursuant to a Leaseback Agreement (the "Leaseback Agreement"); and

WHEREAS, the Company will reconstruct, renovate and equip the Project; and

WHEREAS, the Company will reconstruct, renovate and equip a warehouse and medical distribution facility under the Act; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, based upon representations made by the Company in its Application for Financial Assistance dated April 22, 2019 (the "Application"), the Company's existing facility is located at 335 Columbia Street in the City of Utica (the "existing facility") which is situated in the footprint of a hospital relocation project and the Company received an offer from Mohawk Valley Health Systems to sell its existing facility (in lieu of condemnation) in furtherance of the Hospital Project.

WHEREAS, the Agency is authorized under its Uniform Tax Exemption Policy to provide for financial assistance to the Project; and

WHEREAS, representations made by the Company in its Application for Financial Assistance support the finding that the Project will promote employment opportunities and prevent economic deterioration in the area served by the Agency; and

WHEREAS, based upon recommendation made by the Company in its Application, the value of financial assistance is described as follows:

Sales and Use Tax exemptions estimated at \$41,250.00 but shall not exceed \$41,250.00 in aggregate;

Real Property Tax Abatement is estimated at \$425,194.23.

WHEREAS, prior to the closing of a lease-leaseback transaction, and the granting of any tax benefits, a public hearing (the "Hearing") was held so that all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency, or the location or nature of the Facility, can be heard; and

WHEREAS, notice of the Hearing was given prior to the closing of a lease-leaseback transaction, and the granting of any tax benefits, and such notice (together with proof of publication) was in the form annexed hereto as Exhibit A; and

WHEREAS, the minutes of the Hearing are or will be annexed hereto as Exhibit B; and

WHEREAS, the Agency has given due consideration to the operation of a retail facility and the economic conditions of the area in which the Project is situated; and

WHEREAS, the Agency has given due consideration to the application of the Company and to representations by the Company that the proposed lease-leaseback transaction is either and inducement to the Company to maintain and expand the Facility in the County or is necessary to maintain the competitive position of the Company in its industry; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the "SEQR Act" or "SEQRA"), the Agency constitutes a "State Agency"; and

WHEREAS, to aid the Agency in determining whether the Facility may have a significant effect upon the environment, the Company by virtue of its activities in renovating, reconstructing and equipping the Project shall submit, as a condition to closing, that SEQR review is not required, or in the alternative, the Environmental Assessment Form and related documents (Questionnaire) with respect to the Facility, a copy of which will be placed on file as the office of the Agency; and

WHEREAS, prior to the granting of any tax benefits, the Agency will complete its environmental review (if applicable) and make determinations for purposes of SEQRA.

Section 1. The Agency hereby finds and determines:

- (a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes of the Act and to exercise all powers granted to it under the Act; and
- (b) The Facility constitutes a "project," such as that term is defined in the Act; and
- (c) The acquisition, construction, equipping and financing of the Facility, and the leasing of the Facility to the Company will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Herkimer County and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

- (d) The acquisition, construction and equipping of the Facility is reasonably necessary to induce the Company to maintain and expand its business operations in the State of New York; and
- (e) Based upon representations of the Company, the Facility conforms with the local zoning laws and planning regulations of Herkimer County and all regional and local use plans for the area in which the Facility is located; and
- (f) It is desirable and in the public interest for the Agency to acquire a leasehold interest in the Facility and lease the Facility back to the Company; and
- (g) The Lease is an effective instrument whereby the Company conveys a leasehold interest to the Agency; and
- (h) The Leaseback Agreement is an effective instrument whereby the Company leases the Facility from the Agency; and

Section 2. In consequence of the foregoing, and subject to the receipt and approval by the Agency of pre-closing documents deemed reasonably necessary by counsel to the Agency, the Agency hereby determines to acquire a leasehold interest in the Facility from the Company and to lease the Facility back to the Company and to execute and deliver the Lease Agreement, the Leaseback Agreement and memoranda thereof, the Environmental Compliance and Indemnification Agreement, the PILOT Agreement, the Recapture Agreement and all related documents (collectively the Closing Documents).

Section 3. The form and substance of the Closing Documents (each in substantially the forms presented to the Agency and which, prior to the execution and delivery thereof, may be redated) are hereby approved.

Section 4.

- (a) The Chairman, Vice Chairman, Secretary or any member of the Agency and the Executive Director, John J. Piseck, are hereby authorized, on behalf of the Agency, to execute and deliver the Closing Documents, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, Vice Chairman, Secretary, Executive Director or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution. The execution thereof by the Chairman, Vice Chairman, Executive Director or any member of the Agency shall constitute conclusive evidence of such approval.
- (b) The Chairman, Vice Chairman, Secretary or member of the Agency and the Executive Director, John J. Piseck, are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).



Section 5. 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 Closing Documents, and to execute and deliver all such additional certificates, instruments and documents, 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 Closing Documents binding upon the Agency.

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

I, Stacey Holleran, the undersigned Assistant Secretary of the Herkimer County Industrial Development Agency, DO HEREBY CERTIFY:

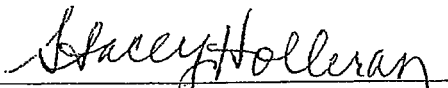
That I have compared the annexed extract of the minutes of the meeting of the Herkimer County Industrial Development Agency (the "Agency"), including the resolutions contained therein, held on the 20<sup>th</sup> day of June, 2019 with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Closing Documents contained in this transcript of proceedings are each in substantially the substance presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, (ii) pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand as of this 20th day of June, 2019.

HERKIMER COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

  
Stacey Holleran, Assistant Secretary

## INDUCEMENT RESOLUTION

At a regular meeting of the Herkimer County Industrial Development Agency held at 420 E. German Street, Herkimer, New York, on June 20, 2019 at 8:00 A.M.

The meeting was called to order by the Chairman, and, upon the roll being called, the following were

PRESENT: Vincent (Jim) Bono, David Chlus, Catherine Ricci, Michael Werenczak, Dan Reardon, Cory Albrecht

ABSENT: John Scarano

ALSO PRESENT: John Piseck, Stacey Holleran, Victoria Adams, Bernard Peplinski

The following resolution was offered and seconded with the members voting:

<u>AYE</u>	<u>NAY</u>	<u>ABSTAINED</u>
Albrecht, Bono, Chlus Ricci, Werenczak	None	Reardon

**RESOLUTION OF THE HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "AGENCY") TAKING OFFICIAL ACTION TOWARD APPOINTING LITTLE FALLS SOLAR, LLC (the "COMPANY), AND THE PRINCIPALS OF THE COMPANY, AS AGENT OF THE AGENCY IN CONNECTION WITH A SUBLEASE-LEASEBACK TRANSACTION, AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE PROJECT.**

WHEREAS, the Herkimer County Industrial Development Agency (the "Agency") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York Chapter 410 of the Laws of 1970 and Chapter 158 of the Laws of 1981 of the State (collectively, the "Act") to promote, develop, encourage and assist in the constructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, pollution control, commercial, research and recreation facilities for the purpose of promoting, attracting 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 (the 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 provide assistance in the construction and equipping of one or more "Projects" (as defined in the Act); and

WHEREAS, the Company has presented an application (the "Application") to the Agency, a copy of which was presented at this meeting and copies of which are on file at the office of the Agency, requesting that the Agency consider undertaking; (i) to provide assistance through sales tax and mortgage tax incentives for the constructing, equipping, and financing of the above described project Facility and real property tax relief in the form of a Payment in Lieu of Tax Agreement (the "Assistance"); (ii) to acquire, construct, equip, and finance the Facility or to cause the Facility to be constructed, equipped, and financed; and (iii) to lease and/or sublease (with an obligation to leaseback) or sell the Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the Facility will consist of the acquisition, construction, and equipping of a solar array in the Town of Little Falls with an estimated capacity of 2.867± kilowatts. The Project has an estimated cost of Four Million Sixty Eight Thousand Three Hundred and Sixty One 00/100 Dollars (\$4,068,361.00) (the "Project Costs"); and

WHEREAS, the project proposes to generate electricity that will allow residential and commercial subscribers to benefit from renewable energy that will offset traditional power sources; and

WHEREAS, the Agency has given due consideration to the Application and to representations by the Company; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto the Department of Environmental Conservation of the State Department of Environmental Conservation of the State (collectively "SEQR"), the Agency constitutes a State Agency; and

WHEREAS, the Town of Little Falls Zoning Board of Appeals evaluated the project and on June 20, 2019 and issued a Negative Declaration (the "SEQR Determination") under SEQR with respect to the Project. A copy of Negative Declaration is attached hereto as Exhibit A; and

WHEREAS, the Agency has considered its environmental assessment form and related forms (the questionnaire submitted by the Company) the requisite criterion to determine whether the proposed action or the Project will have a significant effect on the environment; and

WHEREAS, if required by the Act, a public hearing will be duly noticed and had with respect to the Facility and the Assistance.

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

1. Based upon the application and other representations made by the Company to the Agency and the Agency's due deliberation, the Agency hereby makes the following findings and determinations:

A. The Facility constitutes a "Project" within the meaning of the Act.

B. The Assistance will induce the Company to locate the Facility in the County, thereby maintaining and increasing employment opportunities within the State of New York and otherwise furthering the proposes of the Agency as set forth in the Act.

C. Except as is permitted by law, the Facility will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Facility from one area of the State to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Facility located in the State.

2. The form and substance of the proposed agreement in substantially the draft form presented to this meeting between the Agency and the Company setting forth the undertakings of the Agency and the Company with respect to providing of the Assistance (the "Agreement") are hereby approved. The Chairman, Vice Chairman and Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Agreement in substantially the form presented to this meeting, with such changes in terms and form as the Chairman, Vice Chairman or the Executive Director shall approve. The execution thereof by the Chairman, Vice Chairman or Executive Director shall constitute conclusive evidence of such approval.

3. Subject to the conducting of a public hearing, if required, pursuant to Sections 859-a and 862 of the Act and subject to the conditions set forth in the Agreement, the Company is hereby authorized to proceed with the acquisition, construction, equipping, and financing of the Facility and to advance such funds as may be necessary to accomplish such purposes.

4. Subject to the conducting of a public hearing, if required, pursuant to Sections 859-a and 862 of the Act and subject to the conditions set forth in the Agreement, the Company in accordance with the Agreement and where applicable its tenant or tenants, are appointed the true lawful agents of the Agency (i) to acquire, construct, equip, and finance the Facility, (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for

completing the Facility, all with the same powers and the same validity as the Agency could do if acting in its own behalf.

5. This Project shall not proceed until it has conformed with all requirements of SEQR, conditions (if any) imposed by the Town of Little Falls Zoning Board of Appeals, this Agency has adopted the Negative Declaration of the Town of Little Falls or County of Herkimer as Lead Agency in the SEQR process, the Company has provided adequate proof that the Project permits are duly transferable and the leases and/or subleases are approved by the Agency, and the Company has provided sufficient proof of its ability to finance the Project.

6. Pursuant to Section 875(3) of the New York General Municipal Law, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, subleasee's or any other party authorized to make purchases or otherwise benefit from the Project, any sales and use tax exemption benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, subleasee's or any other party authorized to make purchases for the benefit of the Project if determined that: (i) the Company, its agents, consultants, subcontractors, subleasee's or any other party authorized to make purchases for the benefit of the Project, is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, subleasee's or any other party authorized to make purchases for the benefit of the Project; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company, its agents, consultants, subcontractors, subleasee's or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. As a condition precedent of receiving sales and use tax exemption benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, must (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

7. The Chairperson, Vice Chairperson, and/or Administrative Director of the Agency are hereby authorized, on behalf of the Agency, to negotiate and execute (a) the Lease Agreement whereby the Company conveys a leasehold interest in the Project to the Agency, (b) the related Leaseback Agreement leasing the Project back to the Company, (c) the Project Benefits and Recapture Agreement, and (d) the PILOT Agreement; provided (1) the rental payments under the Leaseback Agreement include payment of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project; and (ii) the terms of the PILOT Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

A copy of this resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours and notices of this negative declaration shall be filed, posted and published as shall be necessary to conform with the requirements of SEQR.

8. This Resolution shall take effect immediately.



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

I, the undersigned Assistant Secretary of the Herkimer County Industrial Development Agency, do hereby certify that I have compared the foregoing extract of the minutes of the Herkimer County Industrial Development Agency (the "Agency") held on June 20, 2019 with the original thereof of file in my office, and that the same is a true and correct copy of the original and of the whole of the original insofar as the same relates to the subject matters therein referred to.

I, FURTHER CERTIFY that (i) all members of the Agency had due notice of the meeting, (ii) the meeting was in all respects duly held, (iii) pursuant to Section 99 of the Public Officers Law (Open Meetings Law), the meeting was open to the general public, and public notice of the time and place of the meeting was duly given to the public and news media in accordance with Section 99 and (iv) there was a quorum of the members of the Agency present throughout the 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 and rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 20th day of June, 2019.

**HERKIMER COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY**

By: Stacey Holleran  
Stacey Holleran, Assistant Secretary

## **Exhibit A**

**Full Environmental Assessment Form**  
**Part 3 - Evaluation of the Magnitude and Importance of Project Impacts**  
**and**  
**Determination of Significance**

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

**Reasons Supporting This Determination:**

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

Upon review of the information recorded on this EAF, as noted, and considering both the magnitude and the importance of each identified potential impact, the conclusion of the Town of Little Falls Planning Board as lead agency is that this project will result in no significant adverse impacts on the environment and, therefore, preparation of an environmental impact statement is not required. Accordingly, this negative declaration is hereby issued. However, the Applicant is advised that it must comply with the following requirements:

1. The Applicant must prepare and submit to the Lead Agency a plan for mitigating to the extent possible visual impacts of the completed project.
2. The Applicant must apply for and obtain a SPDES General Permit for Construction Activity (GP-0-15-002). A copy of the Notice of Intent and the Stormwater Pollution Prevention Plan must be provided to the Lead Agency prior to the commencement of construction.
3. The Applicant must prepare and submit to the Lead Agency a plan for evaluating the impacts of the project on the Northern Harrier (*Circus Cyaneus*). Such plan must be approved by the New York State Department of Environmental Conservation prior to commencing with construction of the project.
4. The Applicant must comply with the New York State Department of Agriculture and Markets "Guidelines for Agricultural Mitigation for Solar Energy Projects".
5. The Applicant must comply with the requirements provided by the New York State Department of Transportation in its February 7, 2019, letter to the Town of Little Falls Planning Board.

**Determination of Significance - Type 1 and Unlisted Actions**

SEQR Status:

☒ Type 1

☐ Unlisted

Identify portions of EAF completed for this Project:

☒ Part 1

☒ Part 2

☒ Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information  
Coordinated review responses from the following agencies: DEC; NYSDOT; Parks, Recreation, and Historic Preservation; and Herkimer Oneida

Comprehensive Planning. Additionally, supporting information from Nexamp

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the  
The Town of Little Falls Planning Board as lead agency that:

☒ A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

☐ B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.7(d)).

☐ C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action: Little Falls Solar, LLC

Name of Lead Agency: Town of Little Falls Planning Board

Name of Responsible Officer in Lead Agency: Elaine M. Cobb

Title of Responsible Officer: Chairperson

Signature of Responsible Officer in Lead Agency: Elaine M. Cobb *Elaine M. Cobb* Date: May 14, 2019

Signature of Preparer (if different from Responsible Officer) Date:

**For Further Information:**

Contact Person: Elaine M. Cobb

Address: Town of Little Falls Planning Board, 124 O'Hara Road, Little Falls, NY 13365

Telephone Number: 315 - 796 - 8507

E-mail: ElaineCobb@verizon.net

**For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:**

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)

Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>