



MINUTES

May 28, 2019

**Herkimer County Industrial Development Agency Board of Directors Regular Meeting held at the Council Chambers at City Hall, City of Little Falls, 659 East Main Street, Little Falls, NY 13365.**

STAFF

JOHN J. PISECK, JR.  
Executive Director

STACEY J. HOLLERAN  
Office Manager

VICTORIA L. ADAMS  
Administrative Assistant

After the Pledge of Allegiance, Chairman V. James Bono called the meeting to order at 8:02 AM.

**The Public Hearing for the Little Falls Solar I Project was opened at 8:03 AM** – See separate minutes for the Public Hearing.

BOARD OF DIRECTORS

VINCENT J. BONO  
Chairman

DAVID M. CHLUS  
Vice Chairman

JOHN SCARANO  
Secretary

MICHAEL WERENCZAK  
Treasurer

CORY ALBRECHT  
Director

DANIEL B. REARDON  
Director

CATHERINE RICCI  
Director

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

**Members Absent:** Catherine (Cate) Ricci

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

**Also Present:** Anthony Hallak, Jim Wallace, Bob Hollum, Peter Manno, Kurt Ackerman, Assemblyman Brian Miller, Mark Feane, Dave Warner, Jon Putnam, Peter Campione, Kim Enea, and Mayor Mark Blask.

**Minutes:** The minutes of the following board meetings were offered for review: April 30, 2019 Regular Meeting and May 14, 2019 Public Hearing (Mohawk Hospital Equipment). **David Chlus moved, seconded by John Scarano to approve presented minutes. Motion Carried.**

**Financial Reports:** The following financial reports were offered for review and approval: 2019 April Operating Report, Operating Account, Account Balances, Small Cities/GOSC/IRP/Lease Balance and payment status. **Michael Werenczak moved, seconded by Cory Albrecht to approve all financial reports as presented.**

**Mohawk Hospital Equipment:** The Final Authorizing Resolution for Mohawk Hospital Equipment has not been finalized and will be presented at a future board meeting of the IDA.

**Old Forge Properties dba Enchanted Forest Water Safari:** An Application was presented to the board for review and consideration for assistance with a project which includes three new water slides at this Old Forge tourism destination facility. Mr. Piseck has also been working with Empire State Development regarding securing out of cycle money to assist with the project.

After further review and discussion, **Dan Reardon offered the following motion:**

**RESOLUTION OF THE HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "AGENCY") TAKING OFFICIAL ACTION TOWARD APPOINTING OLD FORGE PROPERTIES, INC. D/B/A ENCHANTED FOREST WATER SAFARI (the "COMPANY"),**

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

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

**AND THE PRINCIPALS OF THE COMPANY, AS AGENT OF THE AGENCY IN CONNECTION WITH A LEASE-LEASEBACK TRANSACTION, AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT 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.**

**Shaun Cacciatore (Primo Pizzeria):** More information and documentation is to be obtained before considering application for a Title IX loan. No action taken.

**Lead Agency for Water Transmission Main:** Mr. Piseck reported he has attended many meetings regarding extending the water transmission main from the Mohawk Valley Water Authority to include the Town of Schuyler, Village of Frankfort, Village of Ilion, and the Town and Village of Herkimer. There is a need to have a lead agency in order to facilitate the project and secure funding. **Daniel Reardon moved, seconded by Michael Werenczak to authorize the IDA be lead agency for the project. Motion carried.**

**USDA – IRP Loan Fund – Open CD:** Mr. Piseck explained that due to two businesses (Valley Electric and Field of Dreams) that were loaned IRP funds in the past filing bankruptcy, the IDA is still responsible for paying back funds borrowed to the USDA. No further loans will be given from the fund. Mr. Piseck explained that by using current loan funds to open a CD, we will be able to use the interest earned to help pay back the loan to USDA.

**John Scarano moved, seconded by Cory Albrecht, to deposit \$80,000 of IRP funds into a CD at a local banking institution with the best interest rate for a term determined by the Executive Director. Motion carried.**

**Change June Meeting date to June 24 @ 8:00 AM:** Due to scheduling conflicts, the Herkimer County IDA will be holding the next board meeting on Monday, June 24<sup>th</sup>, 2019. It was also discussed that board members will be taking sexual harassment training during the scheduled board meeting. **Daniel Reardon moved, seconded by Michael Werenczak to change the June meeting date to June 24, 2019 at 8:00 AM to be held at the office of the agency. Motion carried.**

**Manheim Business Park:** Herkimer County IDA entered into an agreement with GHD Consulting Services, Inc. for a Map, Plan Report. The agreement was under estimated by GHD leaving a shortfall. Jon Putnam, a representative of GHD, spoke about why there was such a large difference in what the original bid was and the amount that is now being asked of the Herkimer County IDA. Mr. Piseck stated that he would like to look into this matter further. Mr. Putnam was excused.

**Project Updates/Other Business:**

**Frankfort 5S South Business Park:** Mr. Piseck has a meeting with Tractor Supply Co. to discuss water runoff issues with cul-de-sac flooding. The road cannot be turned over to the Town of Frankfort until the issue is resolved.

**IPAD 2019 Marketing:** There is a small issue pertaining to the land survey of the Windecker parcel. Mr. Piseck stated that once the issue is cleared up, the agency can move forward with the agreement. A kick-off meeting will be held within the month, and the board was invited to attend.

**Schuyler Business Park Expansion:** The IDA received meeting minutes from the Town of Schuyler approving the zoning change of the property behind the Schuyler Business Park to Planned Development.

**Fuzehub Agriculture and Manufacturing B2B Event:** The Fuzehub Event will take place June 5<sup>th</sup> and 6<sup>th</sup> at Herkimer College. The board was invited to attend.

**Mohawk Valley Edge:** Tractor Supply Company was recognized for a Leading-Edge Award. A video of the Wayne Evans, Plant Manager, is posted on our Facebook page.

**EPA Grant:** Mr. Piseck is planning to attend a Redevelopment Summit to pitch properties to developers from around the country. He will specifically be speaking about the Duofold Site in Ilion.

**Little Falls Solar I, LLC :** Mr. Piseck announced the public hearing is now closed at 8:31 AM.

A request to deviate from its current Off Site Commercial Solar Photovoltaic policy with regards to PILOT range of \$5,000 to \$6,000 per megawatt was received from Nexamp. Mr. Piseck reported he did some research and recommends approving the request.

After discussion, **Cory Albrecht moved, seconded by John Scarano to approve the PILOT level of \$3,900/MW-AC with a 2% annual increase for this project. Total term of PILOT will be 15 years. Motion carried with one abstaining-Reardon.**

The following resolution was offered by Michael Werenczak and seconded by David Chlus with members voting:

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
Albrecht, Bono, Chlus Scarano, Werenczak	None	Reardon

The official resolution is attached to the original minutes.

\*\*\*\*\*

**Executive Session:** Daniel Reardon moved seconded by David Chlus to enter into executive session at 8:36 AM to discuss contractual matters. Motion carried. All board members, John Piseck, Stacey Holleran, Victoria Adams, Mark Feane, Mark Blask, Jim Wallace, Kurt Ackerman, Peter Manno, Bob Hollum, and Brian Miller were invited to stay.

Daniel Reardon moved, seconded by Cory Albrecht to end executive session at 9:01 AM. Motion carried.

\*\*\*\*\*

**Real Estate Appraisal:** Daniel Reardon moved, seconded by David Chlus to approve payment up to \$1,500.00 for a land appraisal performed by Frank Donato. Motion carried.

**DASNY/SAM Grants Resolution** – Up until this point, an informal verbal agreement with the Village of Frankfort regarding the flow of funds. The Village of Frankfort passed a resolution authorizing the Village to accept pre-payment from the HCIDA to cover project costs, use those funds to pay the contractors/vendors, and then when the grant funds are reimbursed and received from DASNY, the Village will re-pay the HCIDA. The HCIDA, utilizing funding from Herkimer County, ultimately acted as a lender to the Village to bridge the costs of the project until the grant reimbursement is received.

**John Scarano moved, seconded by David Chlus to authorize the HCIDA to:**

1. Accept funds from Herkimer County (authorized by County Resolution No. 131 May 17, 2017) in order to execute and/or finance infrastructure projects at the Frankfort 5S South Business Park in order to accommodate Tractor Supply Company.
2. Utilize a portion of the funding to assist the Village of Frankfort to cover project costs in order to upgrade the electrical infrastructure owned by Frankfort Power and Light.
3. Accept funding in the amount of up to \$750,000 from the Village of Frankfort when New York State grant funds are reimbursed by the Dormitory Authority of the State of New York (authorized by Village Resolution No. 33-2019).
4. Reimburse Herkimer County with the funding received from the Village of Frankfort.

**Motion carried.**

\*\*\*\*\*

**Michael Werenczak moved, seconded by John Scarano to adjourn at 9:06 AM. Motion carried.**

**Respectfully submitted,**

A handwritten signature in black ink, appearing to read "Victoria Adams", with a large, sweeping flourish at the end.

**Victoria Adams**  
**Administrative Assistant.**

## **INDUCEMENT RESOLUTION**

At a regular meeting of the Herkimer County Industrial Development Agency held at City Hall, 659 East Main Street, Little Falls, New York, on May 28, 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, John Scarano, Michael Werenczak, Dan Reardon, Cory Albrecht

ABSENT: Catherine Ricci

ALSO PRESENT: John Piseck, Stacey Holleran, Victoria Adams, James Wallace, Anthony Hallak, Bob Hollum, Peter Manno, Kurt Ackerman, Assemblyman Brian Miller, Mark Feane, Dave Warner, Jon Putnam, Peter Campione, Kim Enea, and Mayor Mark Blask

The following resolution was offered by Dan Reardon and seconded by Cory Albrecht with the members voting:

AYE

NAY

ABSTAIN

All

None

**RESOLUTION OF THE HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "AGENCY") TAKING OFFICIAL ACTION TOWARD APPOINTING OLD FORGE PROPERTIES, INC. D/B/A ENCHANTED FOREST WATER SAFARI (the "COMPANY), AND THE PRINCIPALS OF THE COMPANY, AS AGENT OF THE AGENCY IN CONNECTION WITH A LEASE-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 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, reconstructing, 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 "State"); 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 (with an obligation to purchase) 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 three new water slides located in the Town of Webb, Herkimer County, State of New York, known as 3183 State Route 28, Old Forge, New York 13420. The Project has an estimated cost of Three Million and 00/100 Dollars (\$3,000,000.00) (the "Project Costs"); 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 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 purposes 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 and 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 Webb, this Agency has adopted the Negative Declaration of the Town of Webb or County of Herkimer as Lead Agency in the SEQR process and the Company has provided sufficient proof of its ability to finance the Project.

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.

6. 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 May 28, 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 5<sup>th</sup> day of June, 2019.

**HERKIMER COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY**

By: Stacey Holleran  
Stacey Holleran, Assistant Secretary

## INDUCEMENT RESOLUTION

At a regular meeting of the Herkimer County Industrial Development Agency held at City Hall, 659 East Main Street, Little Falls, New York, on May 28, 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, John Scarano, Michael Werenczak, Dan Reardon, Cory Albrecht

ABSENT: Catherine Ricci

ALSO PRESENT: John Piseck, Stacey Holleran, Victoria Adams, James Wallace, Anthony Hallak, Bob Hollum, Peter Manno, Kurt Ackerman, Assemblyman Brian Miller, Mark Feane, Dave Warner, Jon Putnam, Peter Campione, Kim Enea, and Mayor Mark Blask

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

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
Albrecht, Bono, Chlus, Scarano, Werenczak	None	Reardon

**RESOLUTION OF THE HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "AGENCY") TAKING OFFICIAL ACTION TOWARD APPOINTING LITTLE FALLS SOLAR 1, 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 near Overlook Drive in Little Falls with an estimated capacity of 2.877± kilowatts. The Project has an estimated cost of Four Million One Hundred Thirty One Thousand Two Hundred and Three 00/100 Dollars (\$4,131,203.00) (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 City of Little Falls Zoning Board of Appeals evaluated the project and on October 29, 2018 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 City of Little Falls Zoning Board of Appeals, this Agency has adopted the Negative Declaration of the City 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 May 28, 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 4th day of June, 2019.

**HERKIMER COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY**

By: Stacey Holleran  
Stacey Holleran, Assistant Secretary

## **Exhibit A**

**October 29, 2018**

### **RESOLUTION No.    OF THE ZONING BOARD OF APPEALS OF THE CITY OF LITTLE FALLS**

**WHEREAS**, the a public utility station is permitted in an R-1 zoning district with approval of the ZBA; and

**WHEREAS**, an application for a solar array utility station on lot 114.44-1-2.1 was submitted to the City of Little Falls Zoning Board of Appeals; and

**WHEREAS**, the City of Little Falls Zoning Board of Appeals has determined that the proposed project constitutes a public utility station definition adopted by the Zoning Board of Appeals on June 22, 2016; and

**WHEREAS**, the City of Little Falls Zoning Board of Appeals declared itself the lead agency and the project to be a Type I pursuant to the State Environmental Quality Review Act; and

**WHEREAS**, the City of Little Falls Zoning Board of Appeals referred the matter to the County Planning Board and other interested agencies pursuant to General Municipal Law § 239-m and received no objection to the Zoning Board of Appeals being declared the lead agency; and

**WHEREAS**, a public hearing was held on October 29, 2018;

**NOW, THEREFORE, BE IT RESOLVED**, after at a regularly scheduled meeting, and after due consideration and review of the environmental impact, the Zoning Board of Appeals determined there to be no significant impact that would result from the installation and maintenance of the solar array public utility station; and

**IT IS FURTHER RESOLVED**, that the Zoning Board of Appeals, as lead agency, issued a negative declaration and granted the application.

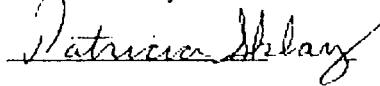
This resolution shall take effect upon passing hereof by the Zoning Board Appeals.

Dated: October 29, 2018

Motion: Mike Bulger

Second: Joseph Lee

All in favor: Aye



Patricia Sklarz, Clerk of the City of Little Falls Zoning Board Appeals