

**AUTHORIZING RESOLUTION
MASONIC TEMPLE PROJECT**

A regular meeting of Herkimer Local Development Corporation (the "Corporation") was convened in public session at the Herkimer County Chamber of Commerce Conference Room located at 420 E. German Street, in the Village and Town of Herkimer, Herkimer County, New York, on July 30, 2024 at 9:47 o'clock a.m., local time.

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

PRESENT:

Vincent J. Bono	Chairman
Cory Albrecht	Vice Chairman
John Scarano	Secretary
Ann Gaworecki	Director
Tim Day	Director
Alana Basloe	Director

ABSENT:

Michael Werenczak	Treasurer
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ADDITIONAL INDIVIDUALS PRESENT INCLUDED THE FOLLOWING:

John J. Piseck, Jr.	Chief Executive Officer
Victoria Adams	Operations Manager
Jennifer Young	Office Administration
Erin E. Spina	Marketing & Communications Specialist
Alaina Valeriano	Community & Business Development Specialist

The following resolution was offered by Cory Albrecht, seconded by Alana Basloe, to wit:

Resolution No. HLDC-24-13

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS IN CONNECTION WITH A LEASE/LEASEBACK TRANSACTION WITH THE HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY").

WHEREAS, Herkimer Local Development Corporation (the "Corporation") is authorized and empowered by the provisions of 402 and Section 1411 of the Not-For-Profit Corporation Law of the State of New York (the "NFPCL") to promote community and economic development and the creation of jobs for the citizens of Herkimer County, New York (the "County") by, among other things, promoting the community and economic development of the County, and creating jobs for the citizens of the County; and

WHEREAS, to accomplish its stated purposes, the Corporation is authorized and empowered under the NFPCL and its certificate of incorporation (the "Certificate") to enter into contracts with any other economic development organizations to help achieve the purposes described in the NFPCL and the Certificate; and to perform any and all acts and things, and exercise any and all powers which may or now hereafter be lawful for the Corporation to do or exercise under and pursuant to the laws of the State of New York for the purpose of accomplishing any of the purposes of the Corporation; and

WHEREAS, the Corporation submitted an application (the "Application") to the Herkimer County Industrial Development Agency (the "Agency"), as supplemented, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") for the benefit of the Corporation, said Project consisting of the following: (A)(1) the acquisition of a leasehold interest in an approximately 0.36 acre parcel of land located at 415 N. Main Street (tax map number 113.81-6-6) in the Town and Village of Herkimer, Herkimer County, New York (the "Land"), together with an existing building located thereon (the "Facility"), (2) the making of certain renovations to the Facility and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (collectively, the "Equipment") (the Land, the Facility and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing expected to constitute an office building to be used by the Agency and the Corporation as their corporate offices with portions of thereof being leased by the Agency and/or the Corporation to various tenants, and other directly and indirectly related activities; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Corporation or such other person as may be designated by the Corporation and agreed upon by the Agency; and

WHEREAS, in connection with the Project, the Corporation has requested that, based on discussions among the Agency, the Corporation, and Herkimer County, New York, the Agency participate in the Project by investing a portion of the Agency's funds in the Project (the "Agency Investment") which Agency Investment may, at the discretion of the Agency, over the life of the Project be an amount up to, and in any event not to exceed, the costs of the Project; and

WHEREAS, in connection with the Project and the Agency Investment, the Agency has requested the Corporation to enter into certain documents including, but not limited to: (A) a certain lease to agency (the "Lease to Agency" or the "Underlying Lease") by and between the Corporation, as landlord, and the Agency, as tenant, pursuant to which the Corporation will lease to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the "Leased Premises"); (B) a certain license agreement (the "License to Agency" or the "License Agreement") by and between the Corporation, as licensor, and the Agency, as licensee, pursuant to which the Corporation will grant to the Agency (1) a license to enter upon the balance of the Land (the "Licensed Premises") for the purpose of undertaking and completing the Project and (2) in the event of an occurrence of an Event of Default by the Corporation, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement (as hereinafter defined); (C) a lease agreement (and a memorandum thereof) (the "Lease Agreement") by and between the Agency and the Corporation, pursuant to which, among other things, the Corporation agrees to undertake the Project as agent of the Agency and the Corporation further agrees to lease the Project Facility from the Agency and, as rental thereunder, to pay the Agency's administrative fee relating to the Project and to pay all expenses incurred by the Agency with respect to the Project; (D) a payment in lieu of tax agreement (the "Payment in Lieu of Tax Agreement") by and between the Agency and the Corporation, pursuant to which the Corporation will agree to pay certain payments in lieu of taxes with respect to the Project Facility; (E) a uniform agency project agreement (the "Uniform Agency Project Agreement") by and

between the Agency and the Corporation regarding the granting of the financial assistance and the potential recapture of such assistance; (F) if it is determined that the Corporation cannot make purchase exempt from sales and use taxes, a certain recapture agreement (the "Section 875 GML Recapture Agreement") by and between the Corporation and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes; (G) if the Corporation intends to request the Agency to appoint (1) the Corporation, as agent of the Agency and (2) a Contractor, as agent(s) of the Agency prior to closing on the Project and the Lease Agreement, interim agency and indemnification agreement and interim Section 875 GML recapture agreement (collectively, the "Interim Documents") and (H) various certificates relating to the Project (collectively, the "Closing Documents"); and

WHEREAS, the Corporation desires to undertake the Project, accept the Agency Investment and enter into the Closing Documents; and

WHEREAS, the Corporation now desires to (A) authorize the acceptance of the Agency Investment for the purpose of financing all or a portion of the costs of the Project; (B) delegate to the Chairman, Vice Chairman or Chief Executive Officer of the Corporation (each an "Authorized Officer"), with review and advice from counsel to the Chairman, authority to determine the final details of the Agency Investment and the Closing Documents, and (C) authorize execution and delivery by the Corporation of various documents relating to the Project and the acceptance of the Agency Investment, including but not limited to: (1) the Closing Documents, (2) a certain investment and indemnification agreement by and between the Agency and the Corporation as may be necessary to facilitate the Agency Investment, and (3) various certificates relating to the Project (the "Corporation Documents"); and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the Agency on July 30, 2024 (the "SEQRA Resolution"), the Agency determined that the Project constitutes a "Type II Action" (as such quoted term is defined under SEQRA), and therefore that no further action with respect to the Project is required under SEQRA; and

WHEREAS, further pursuant to SEQRA, the Corporation must satisfy the requirements contained in SEQRA and the Regulations prior to making a final determination whether to accept the Agency Investment and enter into the Corporation Documents; and

WHEREAS, accepting the Agency Investment and entering into the Corporation Documents (collectively, the "Action") appears to constitute a "Type II action" (as said quoted term is defined in the Regulations), and therefore it appears that no further determination or procedure under SEQRA is required with respect to the Action; and

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF HERKIMER LOCAL DEVELOPMENT CORPORATION, AS FOLLOWS:

Section 1. All action taken by the Chief Executive Officer, the Corporation Staff, and or counsel to the Corporation with respect to the Project is hereby ratified and confirmed.

Section 2. Based upon the foregoing, the Corporation makes the following findings and determinations with respect to the Action:

(A) Pursuant to Section 617.5(c)(26) of the Regulations, the Action is a "Type II action" (as said quoted term is defined in the Regulations); and

(B) Therefore, the Corporation hereby determines that no environmental impact statement or any other determination or procedure is required under the Regulations with respect to the Action.

Section 3. The Corporation hereby finds and determines that:

(A) By virtue of the Certificate and the NFPCL, the Corporation has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the NFPCL and to exercise all powers granted to it under the NFPCL;

(B) The undertaking of the Project will relieve and reduce unemployment, promote and provide for additional and maximum employment and better and maintain job opportunities, and thereby lessen the burdens of government;

(C) It is desirable and in the public interest for the Corporation to accept the Agency Investment, undertake the Project, and enter into the Corporation Documents; and

(D) Neither the members, directors or officers of the Corporation, nor any person executing the Corporation Documents, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution, issuance or delivery thereof.

Section 4. In consequence of the foregoing, the Corporation hereby determines to: (A) accept the Agency Investment on the terms and conditions set forth by the Agency, (B) use the proceeds of the Agency Investment to pay all or a portion of the costs of the Project, including related fees and expenses of the Corporation incurred in connection with the acceptance of the Agency Investment, and (C) subject to review of the Corporation Documents and any related documents or required actions by an Authorized Officer of the Corporation, and approval of the Corporation Documents and any related documents by counsel to the Corporation, execute the Corporation Documents.

Section 5. The Corporation hereby delegates to the Chairman, Vice Chairman or Chief Executive Officer of the Corporation the power to approve, on behalf of the Corporation, the form and substance of the Corporation Documents and any documents necessary and incidental thereto.

Section 6. (A) The Authorized Officer of the Corporation is hereby authorized, on behalf of the Corporation, to execute and deliver the Corporation Documents and the other documents related thereto, and, where appropriate, the Secretary of the Corporation is hereby authorized to affix the seal of the Corporation thereto and to attest the same, all in substantially the forms thereof approved by the Authorized Officer of the Corporation, with such changes, variations, omissions and insertions as the Authorized Officer of the Corporation shall approve, the execution thereof by the Authorized Officer of the Corporation to constitute conclusive evidence of such approval.

(B) The Authorized Officer of the Corporation is hereby further authorized, on behalf of the Corporation, to designate any additional Authorized Officer of the Corporation.

Section 7. The officers, employees and agents of the Corporation are hereby authorized and directed for and in the name and on behalf of the Corporation to do all acts and things required or provided for by the provisions of the Corporation Documents, and to execute and deliver all such additional 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 resolution and to cause compliance by

the Corporation with all of the terms, covenants and provisions of the Corporation Documents and related documents binding upon the Corporation.

Section 8. All action taken by the Authorized Officer of the Corporation in connection with this resolution (if any) prior to the date of this resolution is hereby ratified and confirmed.

Section 9. This resolution 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:

Vincent J. Bono	VOTING	YES
Cory Albrecht	VOTING	YES
John Scarano	VOTING	<u>YES</u>
Michael Werenczak	VOTING	ABSENT
Ann Gaworecki	VOTING	YES
Tim Day	VOTING	<u>YES</u>
Alana Basloe	VOTING	<u>YES</u>

The foregoing Resolution was thereupon declared duly adopted.

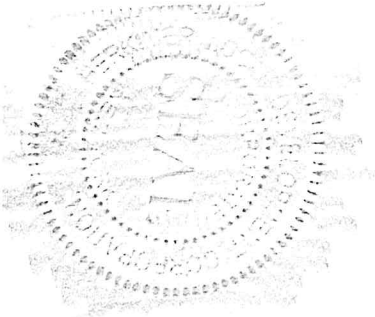
STATE OF NEW YORK)
) SS.:
COUNTY OF HERKIMER)

I, the undersigned Assistant Secretary of Herkimer Local Development Corporation (the "Corporation"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Corporation, including the Resolution contained therein, held on July 30, 2024 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Corporation had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Corporation 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 rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Corporation this 30th day of July, 2024.





Victoria Adams, Assistant Secretary