

County of Chautauqua Industrial Development Agency

AMENDED RESOLUTION NUMBER 09-26-23-01
OF THE MEMBERS OF
COUNTY OF CHAUTAUQUA
INDUSTRIAL DEVELOPMENT AGENCY
TO APPROVE AN AL TECH /EDA LOAN TO Weber - Knapp Company
March 26, 2024

Resolution authorizing AL Tech Loan Funding, EDA Cares Act Funding, or CRLF Funding to Weber - Knapp Company, the amount of \$1,000,000.00 for the stock purchase of Weber - Knapp Company.

WHEREAS, the County of Chautauqua Industrial Development Agency ("CCIDA") has been presented with an AL Tech, EDA Cares Act, or CRLF Revolving Loan Fund application from Weber - Knapp Company (the "Company") to assist in the stock purchase of the company, including real-estate, and business assets including, but not limited to, furniture, fixtures, machinery, equipment (including future equipment), inventory, and accounts receivable. The loan request is in the amount of \$1,000,000.00. The loan term is 20 years ("Term") at 4.00% interest (the "Loan") with principal and interest payments made monthly, and

WHEREAS, the business was in danger of imminent closure by probable sale to non-local competition, and

WHEREAS, the loan shall be secured by (i) 3rd. Lien Mortgage Position on Real Estate behind Cattaraugus County Bank and Evans Bank, which property is located at; 415 Chandler Street, Jamestown, NY 14701, 441 Chandler Street, Jamestown, NY 14701, and 2019 Allen Street, Jamestown, NY 14701 (ii) 3rd Position Lien Assignments of Rents behind Cattaraugus County Bank and Evans Bank (iii) Subordinate lien position behind the lending institutions on all business assets including, but not limited to, furniture, fixtures, machinery, equipment (including future equipment), inventory, and accounts receivable (iv) unlimited personal guarantees provided by Rhonda Johnson and Wayne Rishell (v) Life Insurance Assignment in the amount of \$250,000 for Rhonda Johnson, and \$250,000 for Wayne Rishell, and

WHEREAS, the Company shall maintain fire and hazard insurance on all company assets, with CCIDA listed as assignee and loss payee in an amount equal to the outstanding indebtedness to CCIDA at all times over the course of the loan, and appraisals for the property must be received prior to the loan closing, and

WHEREAS, commitment and financing documents of other lenders are to be satisfactory to the CCIDA, and

NOW THEREFORE, BE IT RESOLVED, that the Administrative Director, Chairman, or any officer of CCIDA, are hereby authorized by the Members to sign any and all documents and other instruments necessary in order to effectuate the above.

By [Signature] Chairman
Date 3/26/24



County of Chautauqua Industrial Development Agency

**RESOLUTION NUMBER 04-23-24-01
OF THE MEMBERS OF THE
COUNTY OF CHAUTAUQUA
INDUSTRIAL DEVELOPMENT AGENCY
TO APPROVE AN AL TECH, EDA CARES ACT AND/OR CRLF LOAN
TO EMINENCE GROUP, INC.**

April 23, 2024


Resolution authorizing an AL Tech, EDA Cares Act and/or Chautauqua Revolving Loan Fund loan for EMINENCE GROUP, INC., in the amount of \$400,000.00.

WHEREAS, the County of Chautauqua Industrial Development Agency (“CCIDA”) has been presented with an AL Tech, EDA Cares Act and/or Chautauqua Revolving Loan Fund application from **Eminence Group, Inc.** (the “Company”) for the purpose of financing equipment. The loan request is in the amount of **\$400,000.00**. The loan term is 7 years (“Term”) at 4% interest (the “Loan”) with principal and interest payments made monthly, and

WHEREAS, the loan shall be secured by (i) Subordinate lien position all Machinery & Equipment (including new equipment), Furniture & Fixtures, Accounts Receivable, and all assets of the Company (ii) Landlord Waiver from Eminence Group Properties, LLC; (iii) Waiver of Personal Guaranty; (iv) Waiver of key-man life insurance, and

WHEREAS, the Company shall maintain fire and hazard insurance on all company assets, with CCIDA listed as assignee and loss payee in an amount equal to the outstanding indebtedness to CCIDA at all times over the course of the loan, and

NOW THEREFORE, BE IT RESOLVED, that the Administrative Director, Chairman, or any officer of CCIDA, are hereby authorized by the Members to sign any and all documents and other instruments necessary in order to effectuate the above.

By:  _____
Chairman

Date: 4/23/24

**Wicked Jimmy LLC -
Deviation Approval Resolution**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on April 23, 2024, at 10:30 A.M., local time, at the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”).

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

PRESENT:

Gary Henry	Chairman
Bradley Walters	Vice Chairman
Daniel Heitzenrater	Secretary
Steven Thorpe	Member
Daniel DeMarte	Member
Tom Harmon	Member
Kevin Muldowney	Member

NOT PRESENT:

Sagan Sheffield-Smith	Treasurer
Amy Harding	Member

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Mark Geise	Administrative Director/CEO
Milan K. Tyler, Esq.	Counsel
Greg Peterson	Counsel
Kristine Morabito	IDA Staff
Rosie Strandburg	IDA Staff
Carol Rasmussen	IDA Staff
Kayla Strandburg	IDA Staff
Nate Aldrich	IDA Staff
Jeanette Lo Bello	IDA Staff
Crystal Erhard	IDA Staff
Jason Sample	IDA Staff
Paul Wendel	County Executive
Eamon Riley	Erie Coast Solar, LLC
Paige Beyer	Barclay Damon

**Wicked Jimmy LLC -
Deviation Approval Resolution**

Greg Bacon
Julia Ciesla-Hanley

Jamestown Post Journal
WRFA 107.9

The attached resolution no. 04-23-24-02 was offered by Dan Heitzenrater, seconded by Daniel DeMarte:

Resolution No. 04-23-24-02

RESOLUTION AUTHORIZING A DEVIATION FROM THE UNIFORM
TAX EXEMPTION POLICY OF THE COUNTY OF CHAUTAUQUA
INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT
TO A PROJECT FOR WICKED JIMMY LLC AND ITS AFFILIATES

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 71 of the 1972 Laws of New York, as amended, constituting Section 895-h of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and 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, 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 acquire, construct, reconstruct and install one or more “projects” (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, WICKED JIMMY LLC, a limited liability company duly organized and existing under the laws of the State of New York (the “Applicant”), presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately .58 parcel of land located at 115-121 West 3rd Street, City of Jamestown, County of Chautauqua, New York (the “Land”), (2) the renovation of an existing approximately 33,900 square foot building on the Land, together with the construction of an approximately 700 square foot addition thereto consisting of decks and rooftop space (collectively, the “Building”), together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery, equipment and building materials necessary for the completion thereof (the “Equipment” and together with the Land and the Building, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as brewery facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from mortgage recording taxes, sales and use taxes and real property taxes (collectively, the “Financial Assistance”); (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other

entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and (D) the sublease thereof by the Applicant or such other entity(ies) to Wicked Warren's, LLC for purposes of the operation thereof; and

WHEREAS, in accordance with Section 874(4) of the Act, (A) the Administrative Director/CEO of the Agency caused a letter dated April 3, 2023 (the "Pilot Deviation Notice Letter") to be mailed to the chief executive officer of each affected tax jurisdiction and such other persons as are required by applicable law, informing said individuals that the Agency would, at its meeting on April 23, 2024 (the "IDA Meeting"), consider a proposed deviation from the Agency's Uniform Tax Exemption Policy and Guidelines (the "Tax Exemption Policy") with respect to the payment in lieu of taxes agreement to be entered into by the Agency with respect to the Project Facility; and (B) the members of the Agency conducted the IDA Meeting on the date hereof and reviewed any comments and correspondence received with respect to the proposed deviation from the Tax Exemption Policy; and

WHEREAS, the Agency desires to provide for compliance with the provisions of Section 874(4) of the Act with respect to the proposed deviation from the Tax Exemption Policy;

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

Section 1. The Agency hereby determines that the Agency has fully complied with the requirements of Section 874(4) of the Act relating to the proposed deviation from the Tax Exemption Policy.

Section 2. Prior to making the determinations set forth in this Resolution, the members of the Agency have considered and weighed all of the factors set forth in the Tax Exemption Policy.

Section 3. Having reviewed all comments and correspondence received at or prior to the IDA Meeting, the Agency hereby approves the proposed deviation from the Tax Exemption Policy as described in the Pilot Deviation Notice Letters (copies of which are attached hereto as Exhibit A) because the Property Tax Exemption (as defined in the Pilot Deviation Notice Letters) is necessary to induce the Applicant to undertake the Project in Chautauqua County. Deviating from the Policy in this instance will advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and Chautauqua County.

Section 4. The Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized and directed, acting individually or jointly, to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution. If the Agency hereafter adopts appropriate final approving resolutions with respect to the proposed straight-lease transaction with the Applicant (the "Transaction"), the Chairman,

Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized and directed, acting individually or jointly, to cause the Agency to (A) enter into one (1) or more Payment in Lieu of Taxes Agreements providing for, among other things, the making of payments in lieu of property taxes consistent with the Pilot Deviation Notice Letters, and (B) file one (1) or more applications for real property tax exemption with the appropriate assessor(s) with respect to the Project Facility.

Section 5. This Resolution shall take effect immediately, but is subject to and conditioned upon the closing of the Transaction.

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

Gary Henry	AYE
Bradley Walters	AYE
Sagan Sheffield-Smith	ABSENT
Dan Heitzenrater	AYE
Steven Thorpe	AYE
Kevin Muldowney	AYE
Daniel DeMarte	AYE
Amy Harding	ABSENT
Tom Harmon	AYE

The foregoing resolution was thereupon declared duly adopted.

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

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on April 23, 2024 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.


WE FURTHER CERTIFY that (A) all members of the Agency 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 at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) there was a quorum of the members of the Agency present throughout said meeting; and (E) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law.

WE 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, we have hereunto set our hand this 23rd day of April, 2024.



[Assistant] Secretary



[Vice] Chairman

EXHIBIT A

Pilot Deviation Notice Letters

See Attached



County of Chautauqua Industrial Development Agency

April 3, 2024

**EMAIL & CERTIFIED MAIL/RETURN RECEIPT
DELIVERY AND READ RECEIPTS REQUESTED**

Mayor Kimberly Ecklund
City Hall
200 East Third Street
Jamestown, NY 14701

Kevin Whitaker, Superintendent
Jamestown Public Schools
197 Martin Road
Jamestown, NY 14701

Rhonda Frank, District Clerk
Jamestown Public Schools
197 Martin Road
Jamestown, NY 14701

Paul M. Wendel, Jr.
Chautauqua County Executive
Gerace Building
3 N Erie Street
Mayville, NY 14757

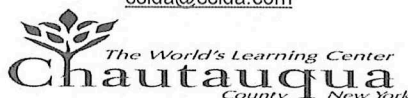
**NOTICE OF PROPOSED DEVIATION FROM UNIFORM
TAX EXEMPTION POLICY AND GUIDELINES**

Ladies and Gentlemen:

Notice is hereby given that at a meeting of the County of Chautauqua Industrial Development Agency (the "Agency") to be held on April 23, 2024 at 10:30 a.m., local time, at the offices of the Agency, 201 West Third Street, Jamestown, County of Chautauqua, New York, the Agency will consider whether to approve the application of WICKED JIMMY LLC, a limited liability company duly organized and existing under the laws of the State of New York (the "Applicant"), for certain "financial assistance" which, if granted, would deviate from the Agency's Uniform Tax Exemption Policy and Guidelines (the "Policy") with respect to the payment of real property taxes.

The Applicant submitted an application for financial assistance (the "Application") to the Agency requesting that the Agency consider undertaking a project (the "Project") consisting of the following: (A)(1) the acquisition of an interest in an approximately .58 parcel of land located at 115-121 West 3rd Street, City of Jamestown, County of Chautauqua, New York (the "Land"), (2) the renovation of an existing approximately 33,900 square foot building on the Land, together with the construction of an approximately 700 square foot addition thereto consisting of decks and rooftop space (collectively, the "Building"), together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery, equipment and

201 W. Third Street, Suite 115, Jamestown, NY 14701-6902
PH 716-661-8900 / FAX 716-664-4515
ccida@ccida.com





County of Chautauqua Industrial Development Agency

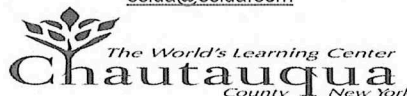
building materials necessary for the completion thereof (the "Equipment" and together with the Land and the Building, collectively, the "Project Facility"), all of the foregoing for use by the Applicant and/or its affiliates as brewery facility; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from mortgage recording taxes, sales and use taxes and real property taxes (collectively, the "Financial Assistance"); (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and (D) the sublease thereof by the Applicant or such other entity(ies) to Wicked Warren's, LLC for purposes of the operation thereof.

The Project Facility would be initially owned, operated and/or managed by the Applicant (or such other designated entity(ies)).

The Application states that the Applicant is seeking an abatement of real property taxes with respect the Project Facility. Based upon negotiations between representatives of the Applicant and the Agency, the parties contemplate that the Agency may agree to grant a real property tax exemption with respect to the Project Facility (the "Property Tax Exemption") that would result in a payment in lieu of taxes ("PILOT") agreement between the Agency and the Applicant and/or its affiliates having a term of ten (10) fiscal tax years (the "PILOT Term"), with annual PILOT payments with respect to the Project Facility as follows:

PILOT Year	Annual PILOT Payment
1	\$44,682
2	\$44,682
3	\$44,682
4	\$44,682
5	\$44,682
6	\$44,682
7	\$44,682
8	\$44,682
9	\$44,682
10	\$44,682

201 W. Third Street, Suite 115, Jamestown, NY 14701-6902
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County of Chautauqua Industrial Development Agency

Thereafter, and through the end of the term of the lease or installment sale agreement with respect to the Project Facility, the payments would be equal to the real property taxes and assessments that would be payable as if the Project Facility was returned to the tax rolls as taxable property and subject to taxation at its then current, full assessed value, as the same may be reassessed from time to time, and subject to tax rate increases imposed by the affected tax jurisdictions.

The Property Tax Exemption, if approved by the Agency, would be a deviation from the Policy.


The reason for the proposed deviation is that the Property Tax Exemption, if approved by the Agency, is necessary to induce the Applicant to undertake the Project in Chautauqua County. Deviating from the Policy in this instance will advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and Chautauqua County.

The meeting will be streamed on the Agency's website in real-time and a recording of the meeting will be posted on the Agency's website, all in accordance with Section 857 of the New York General Municipal Law, as amended.

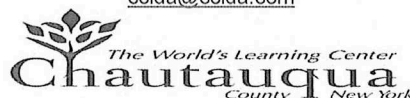
Subject to applicable law, copies of the Application, including the request for a deviation from the Policy, are available for review by the public online at www.ccida.com. For additional assistance, contact the Agency at (716) 661-8900.

COUNTY OF CHAUTAUQUA INDUSTRIAL
DEVELOPMENT AGENCY

By: _____


Richard E. Dixon
Chief Financial Officer

201 W. Third Street, Suite 115, Jamestown, NY 14701-6902
PH 716-661-8900 / FAX 716-664-4515
ccida@ccida.com



**Wicked Jimmy LLC -
Authorizing Resolution**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on April 23, 2024, at 10:30 A.M., local time, at the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”).

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

PRESENT:

Gary Henry	Chairman
Bradley Walters	Vice Chairman
Daniel Heitzenrater	Secretary
Steven Thorpe	Member
Daniel DeMarte	Member
Tom Harmon	Member
Kevin Muldowney	Member

NOT PRESENT:

Sagan Sheffield-Smith	Treasurer
Amy Harding	Member

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Mark Geise	Administrative Director/CEO
Milan K. Tyler, Esq.	Counsel
Greg Peterson	Counsel
Kristine Morabito	IDA Staff
Rosie Strandburg	IDA Staff
Carol Rasmussen	IDA Staff
Kayla Strandburg	IDA Staff
Nate Aldrich	IDA Staff
Jeanette Lo Bello	IDA Staff
Crystal Erhard	IDA Staff
Jason Sample	IDA Staff
Paul Wendel	County Executive
Eamon Riley	Erie Coast Solar, LLC
Paige Beyer	Barclay Damon

**Wicked Jimmy LLC -
Authorizing Resolution**

Greg Bacon
Julia Ciesla-Hanley

Jamestown Post Journal
WRFA 107.9

The attached resolution no. 04-23-24-03 was offered by Dan Heitzenrater, seconded by Daniel DeMarte:

Resolution No. 04-23-24-03

RESOLUTION TAKING OFFICIAL ACTION TOWARD AND APPROVING THE
STRAIGHT LEASE DOCUMENTS FOR A CERTAIN PROJECT FOR
WICKED JIMMY LLC AND/OR ITS AFFILIATES

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 71 of the 1972 Laws of New York, as amended, constituting Section 895-h of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and 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, 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 acquire, construct, reconstruct and install one or more “projects” (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, WICKED JIMMY LLC, a limited liability company duly organized and existing under the laws of the State of New York (the “Applicant”), presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately .58 parcel of land located at 115-121 West 3rd Street, City of Jamestown, County of Chautauqua, New York (the “Land”), (2) the renovation of an existing approximately 33,900 square foot building on the Land, together with the construction of an approximately 700 square foot addition thereto consisting of decks and rooftop space (collectively, the “Building”), together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery, equipment and building materials necessary for the completion thereof (the “Equipment” and together with the Land and the Building, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as brewery facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from mortgage recording taxes, sales and use taxes and real property taxes (collectively, the “Financial Assistance”); (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and (D) the

sublease thereof by the Applicant or such other entity(ies) to Wicked Warren's, LLC for purposes of the operation thereof; and

WHEREAS, in accordance with Section 859-a of the Act, any approval of the Project is contingent upon, inter alia, a determination by the members of the Agency to proceed with the Project following a determination by the Agency that (A) the public hearing and notice requirements and other procedural requirements contained in the Act relating to the Project have been satisfied; and (B) the undertaking of the Project by the Agency and the granting of the Financial Assistance are and will be in compliance with all other applicable requirements of the Act, SEQRA (as hereinafter defined), and all other statutes, codes, laws, rules and regulations of any governmental authority having jurisdiction over the Project and/or the Project Facility (collectively, the "Applicable Laws"); and

WHEREAS, the Administrative Director/CEO of the Agency (A) caused notice of a public hearing of the Agency pursuant to Section 859-a of the Act (the "Public Hearing") to hear all persons interested in the Project and the Financial Assistance contemplated by the Agency with respect to the Project, to be mailed on April 3, 2024 to the chief executive officer of the County of Chautauqua (the "County") and of each other affected tax jurisdiction within which the Project Facility is or is to be located, and posted a copy of the Application on the Agency's website; (B) caused notice of the Public Hearing to be published on April 3, 2024 in *The Post-Journal*, a newspaper of general circulation available to residents of the County; (C) caused the Public Hearing to be conducted on April 17, 2024, at 5:30 p.m., local time, at City Hall, 4th floor, Mayor's Conference Room, 200 E. Third Street, City of Jamestown, County of Chautauqua, New York; (D) caused the Public Hearing to be streamed on the Agency's website in real-time and a recording of the Public Hearing to be posted on the Agency's website, all in accordance with Section 857 of the Act, as amended; and (E) caused a written report of the Public Hearing to be prepared which fairly summarizes the views presented at the Public Hearing and collected written comments from the public (collectively, the "Report") and distributed the Report to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the New York Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York ("NYSDEC"), being 6 N.Y.C.R.R. Part 617, et. seq., as amended (the "Regulations" and collectively with the SEQR Act, "SEQRA"), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination whether to undertake the Project; and

WHEREAS, pursuant to SEQRA, to aid the Agency in determining whether the Project may have a significant adverse impact upon the environment, the Town Board received and reviewed: (1) the Application, and; (2) Part 1 of a Short Environmental Assessment Form dated January 2, 2023 and Parts 2 and 3 dated January 15, 2024 (collectively, the "EAF") (collectively 1 and 2, the "Environmental Information");

WHEREAS, prior to making a recommendation about the potential environmental significance of the Project, the Agency has reviewed the Environmental Information, consulted various information sources, and considered the list of activities which are Type I Actions outlined in Section 617.4 of the SEQRA regulations, the list of activities that are Type II Actions outlined in Section 617.5 of the SEQRA regulations and the criteria for determining significance outlined in Section 617.7 of the SEQRA regulations; and

WHEREAS, the Agency has determined the Project is a Type II Action pursuant to SEQRA because it involves interior renovation and rehabilitation of an existing building with use and occupancy by a type of use permitted within the zoning district occupied by the Land and will not expand the footprint of the Project Facility nor increase or substantially alter environmental impacts associated with the Land and does not exceed any threshold that would make it a Type I Action; and

WHEREAS, in accordance with Section 874(4) of the Act, (A) the Administrative Director/CEO of the Agency caused a letter dated April 3, 2024 (the "Pilot Deviation Notice Letter") to be mailed to the chief executive officer of each affected tax jurisdiction and such other persons as are required by applicable law, informing said individuals that the Agency would, at its meeting on April 23, 2024 (the "IDA Meeting"), consider a proposed deviation from the Agency's Uniform Tax Exemption Policy and Guidelines (the "Tax Exemption Policy") with respect to the payment in lieu of taxes agreement to be entered into by the Agency with respect to the Project Facility; and (B) the members of the Agency conducted the IDA Meeting on the date hereof and reviewed any comments and correspondence received with respect to the proposed deviation from the Tax Exemption Policy and approved the proposed deviation from the Tax Exemption Policy; and

WHEREAS, the Agency now desires to make its determination to proceed with the Project and to grant the Financial Assistance, subject to the terms hereof; and

WHEREAS, the Applicant and/or one (1) or more of its affiliates will (A) execute and deliver a certain Company Lease Agreement (the "Company Lease"), pursuant to which the Applicant and/or such affiliate(s) will grant to the Agency a leasehold interest in the Project Facility; (B) execute and deliver a certain Agency Lease Agreement (Uniform Project Agreement) (the "Agency Lease"), pursuant to which the Agency will grant to the Applicant and/or such affiliate(s) a subleasehold interest in the Project Facility; (C) execute and deliver a certain Payment in Lieu of Taxes Agreement (the "PILOT Agreement"), pursuant to which the Agency would grant an exemption from real property taxes with respect to the Project Facility; and (D) execute and deliver certain other certificates, documents, instruments and agreements related to the Project (together with the Company Lease, the Agency Lease and the PILOT Agreement, collectively, the "Transaction Documents");

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

Section 1. Based upon the Agency's review of the Environmental Information, the Agency has made the following findings:

(a) The Project is a Type II action under SEQRA, precluded from further environmental review, because it consists of the "replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes," the "purchase or sale of furnishings, equipment or supplies, including surplus government property" and "reuse of a residential or commercial structure, or of a structure containing mixed residential and commercial uses, where the residential or commercial use is a permitted use under the applicable zoning law or ordinance" in connection with a project and does not meet or exceed any threshold for a Type I action.

(b) More specifically, the Project involves interior renovation and rehabilitation of an existing building with use and occupancy by a type of use permitted within the zoning district occupied by the Land. The Project will not expand the footprint of the Project Facility nor increase or substantially alter environmental impacts associated with the Land. Finally, the Project includes the acquisition of the Equipment in connection with the above.

Section 2. In accordance with Section 859-a of the Act, the Agency has prepared a written cost-benefit analysis with respect to the Project and the granting of the Financial Assistance (the "Analysis"). The Agency has reviewed the Application, the Report and the Analysis, and, based upon the representations made by the Applicant to the Agency and information obtained by the Agency, the Agency has reviewed and assessed all material information necessary to afford a reasonable basis for the Agency to make a determination to approve the Financial Assistance. In addition, the Agency hereby makes the following findings and determinations with respect to the Project:

(a) based on the proposed use of the Project Facility as set forth in the Application, the economic effects of the Project on the area in which it is situated, and the employment reasonably expected to be created and/or maintained by the Project, and an analysis of how the Project contributes to the realization of the public purposes of promoting employment opportunities in the County and the prevention of economic deterioration in the County, the Project will constitute a commercial facility with a significant impact on the area in which it is situated, and will advance the Agency's purposes by promoting employment opportunities and preventing economic deterioration in the County. Therefore, the Project constitutes a "project" within the meaning of the Act;

(b) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Applicant to undertake the Project in the County;

(c) there is a likelihood that the Project would not be undertaken but for the granting of the Financial Assistance by the Agency to the Applicant;

(d) the completion of the Project Facility, the sublease thereof by the Agency to the Applicant and the operation thereof will not result in the removal of a facility or plant of the Applicant, Wicked Warren's, LLC or any other occupant or user of the Project Facility from one area of the State of New York (the "State") to another area of the State or in the abandonment of one or more plants or facilities of the Applicant, Wicked Warren's, LLC or any other occupant or user located within the State (but outside of the County). Therefore, the provisions of subdivision (1) of Section 862 of the Act are not and will not be violated as a result of the granting of the Financial Assistance by the Agency to the Applicant;

(e) the Project will serve the public purposes of the Act by preserving permanent, private sector jobs, and increasing the overall number of permanent, private sector jobs in the State;

(f) no funds of the Agency shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant, nor shall any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State, nor shall any funds of the Agency be used for advertising or promotional materials which depict elected or appointed government officials in either print or electronic media;

(g) the Project Facility will constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project, but the Project will be a "tourism destination" as defined in Section 862 of the Act;

(h) the granting of the Financial Assistance by the Agency with respect to the Project will encourage and assist the Applicant in undertaking the Project in the County, will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of the County and the State and improve their standard of living, and thereby serve the public purposes of the Act.

Section 3. The Agency hereby ratifies, confirms and approves all actions heretofore taken by the Administrative Director/CEO, the Chief Financial Officer and the staff of the Agency with respect to the Application, the Analysis and the Public Hearing, including, without

limitation, (a) those actions required to ensure full compliance with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the Project, and (b) the appointment of the law firm of Phillips Lytle LLP as Counsel to the Agency with respect to all matters in connection with the Project.

Section 4. The Agency hereby determines that the Agency has fully complied with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the Project.

Section 5. Having considered fully all comments received at or in connection with the Public Hearing and the IDA Meeting, including correspondence received subsequent to the Public Hearing, the Agency hereby further determines to proceed with the Project and the granting of the Financial Assistance, subject to the terms hereof. The Agency hereby approves the granting of (a) an exemption from real property taxes having an estimated value of \$156,670, (b) an exemption from mortgage recording taxes in the maximum amount of \$23,250, and (c) an exemption from sales and use taxes in the maximum amount of \$63,124.

Section 6. The Agency recognizes that due to the complexities of the proposed transaction it may become necessary that certain of the terms approved hereby may require modifications from time to time which will not affect the intent and substance of the authorizations and approvals by the Agency herein. The Agency hereby authorizes the Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency, acting individually or jointly, to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution, but may include adjustments to the Financial Assistance granted hereunder. The approval of such modifications shall be evidenced by the certificate of determination of an Agency officer or the execution and delivery by some or all such Agency officers of relevant documents containing such modified terms.

Section 7. The Agency is hereby authorized to (a) acquire an interest in the Project Facility pursuant to the Company Lease and the other Transaction Documents, (b) grant a subleasehold interest in the Project Facility pursuant to the Agency Lease and the other Transaction Documents, (c) grant the Financial Assistance, (d) execute one (1) or more fee and leasehold mortgage, assignment of rents and leases, and security agreements in favor of such bank, governmental agency or financial institution as the Applicant may determine (such bank, governmental agency or financial institution, the "Bank"), encumbering the Project Facility, solely to subject the Agency's interest in the Project Facility to the lien thereof, all to secure one (1) or more loans made by the Bank to the Applicant with respect to the Project Facility, and (e) do all things necessary, convenient or appropriate for the accomplishment thereof. All acts heretofore taken by the Agency with respect to the foregoing are hereby approved, ratified and confirmed.

Section 8. The form and substance of the Transaction Documents, in the forms presented to the members of the Agency, together with such changes as the Chairman, Vice Chairman, Administrative Director/CEO or Chief Financial Officer may hereafter deem

necessary or appropriate, are hereby approved. The Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer are hereby authorized, on behalf of the Agency, acting together or individually, to execute and deliver the Transaction Documents to which the Agency is a party and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same. The execution and delivery of each such agreement, approval and consent by such person(s) shall be conclusive evidence of such approval.

Section 9. The Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are hereby further authorized, on behalf of the Agency, acting together or individually, to designate any additional Authorized Representatives (as defined in the Agency Lease) of the Agency.

Section 10. The officers, employees and agents of the Agency are hereby authorized and directed, acting individually or jointly, 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 Transaction Documents, to execute and deliver all such additional certificates, instruments, agreements 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, convenient or appropriate to effect the purposes of this Resolution and to cause compliance with all of the terms, covenants and provisions of the Transaction Documents to which the Agency is a party or which are binding on the Agency.

Section 11. The members of the Agency acknowledge the terms and conditions of Section 875(3) of the Act and the duties and obligations of the Agency thereunder with respect to granting of State Sales and Use Taxes (as such term is defined in Section 875 of the Act) with respect to the Project. The members hereby direct the officers of the Agency to comply with such terms and conditions with respect to the Project and hereby direct Counsel to the Agency to include such terms and conditions in all relevant Transaction Documents.

Section 12. The Chairman, the Vice Chairman, the Administrative Director/CEO and the Chief Financial Officer of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 13. 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:

Gary Henry	AYE
Bradley Walters	AYE

Sagan Sheffield-Smith	ABSENT
Dan Heitzenrater	AYE
Steven Thorpe	AYE
Kevin Muldowney	AYE
Amy Harding	ABSENT
Daniel DeMarte	AYE
Tom Harmon	AYE

The foregoing resolution was thereupon declared duly adopted.

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

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on April 23, 2024 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency 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 at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) there was a quorum of the members of the Agency present throughout said meeting; and (E) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law.

WE 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, we have hereunto set our hand this 23rd day of April, 2024.



[Assistant] Secretary



[Vice] Chairman

**ERIE COAST SOLAR, LLC -
Deviation Approval Resolution**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on April 23, 2024, at 10:30 A.M., local time, at the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”).

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

PRESENT:

Gary Henry	Chairman
Bradley Walters	Vice Chairman
Daniel Heitzenrater	Secretary
Steven Thorpe	Member
Daniel DeMarte	Member
Tom Harmon	Member
Kevin Muldowney	Member

NOT PRESENT:

Sagan Sheffield-Smith	Treasurer
Amy Harding	Member

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Mark Geise	Administrative Director/CEO
Milan K. Tyler, Esq.	Counsel
Greg Peterson	Counsel
Kristine Morabito	IDA Staff
Rosie Strandburg	IDA Staff
Carol Rasmussen	IDA Staff
Kayla Strandburg	IDA Staff
Nate Aldrich	IDA Staff
Jeanette Lo Bello	IDA Staff
Crystal Erhard	IDA Staff
Jason Sample	IDA Staff
Paul Wendel	County Executive
Eamon Riley	Erie Coast Solar, LLC
Paige Beyer	Barclay Damon
Greg Bacon	Jamestown Post Journal
Julia Ciesla-Hanley	WRFA 107.9

The attached resolution no. 04-23-24-04 was offered by Steven Thorpe, seconded by Daniel DeMarte:

Resolution No. 04-23-24-04

RESOLUTION AUTHORIZING A DEVIATION FROM THE UNIFORM
TAX EXEMPTION POLICY OF THE COUNTY OF CHAUTAUQUA
INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT
TO A PROJECT FOR EAST COAST SOLAR, LLC
AND/OR ITS AFFILIATES

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 71 of the 1972 Laws of New York, as amended, constituting Section 895-h of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and 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, 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 acquire, construct, reconstruct and install one or more “projects” (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, ERIE COAST SOLAR, LLC, a limited liability company organized and existing under the laws of the Delaware and qualified to do business in the State of New York as a foreign limited liability company, on behalf of itself and/or the principals of Erie Coast Solar, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Applicant”), presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 17.1 acre portion of an approximately 30.3 acre parcel of land located at 3584 New Road, Town of Sheridan, County of Chautauqua, New York (the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on tracking steel structure, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain

furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 2.2 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the Application states that the Applicant is seeking an exemption from real property taxes with respect to the Improvements that, if granted, would constitute a deviation from the Agency’s established Uniform Tax Exemption Policy and Guidelines (the “Tax Exemption Policy”) that is published on the Agency’s website; and

WHEREAS, in accordance with Section 874(4) of the Act, (A) the Administrative Director/CEO of the Agency caused letters dated April 1, 2024 (the “Pilot Deviation Notice Letters”) to be mailed to the chief executive officer of each affected tax jurisdiction and to all other persons required by applicable law, informing said individuals that the Agency would, at its meeting on April 23, 2024 (the “IDA Meeting”), consider a proposed deviation from the Tax Exemption Policy with respect to the payment in lieu of taxes agreement to be entered into by the Agency with respect to the Improvements; and (B) the members of the Agency conducted the IDA Meeting on the date hereof and reviewed any comments and correspondence received with respect to the proposed deviation from the Tax Exemption Policy; and

WHEREAS, the Agency desires to provide for compliance with the provisions of Section 874(4) of the Act with respect to the proposed deviation from the Tax Exemption Policy;

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

Section 1. The Agency hereby determines that the Agency has fully complied with the requirements of Section 874(4) of the Act relating to the proposed deviation from the Tax Exemption Policy.

Section 2. Prior to making the determinations set forth in this Resolution, the members of the Agency have considered and weighed all of the factors set forth in the Tax Exemption Policy.

Section 3. Having reviewed all written comments and correspondence received at or prior to the IDA Meeting, the Agency hereby approves the proposed deviation from the Tax

Exemption Policy as described in the Pilot Deviation Notice Letters (copies of which are attached hereto as Exhibit A) because the Property Tax Exemption (as defined in the Pilot Deviation Notice Letters) is necessary to induce the Applicant to undertake the Project in Chautauqua County. Deviating from the Policy in this instance will advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and Chautauqua County.

Section 4. The Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized and directed, acting individually or jointly, to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution. If the Agency hereafter adopts appropriate final approving resolutions with respect to the proposed straight-lease transaction with the Applicant (the “Transaction”), the Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized and directed, acting individually or jointly, to cause the Agency to (A) enter into a Payment in Lieu of Taxes Agreement providing for, among other things, the making of payments in lieu of property taxes consistent with the Pilot Deviation Notice Letters, and (B) file an application for real property tax exemption with the appropriate assessor(s) with respect to the Improvements.

Section 5. This Resolution shall take effect immediately, but is subject to and conditioned upon the closing of the Transaction.

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

Gary Henry	AYE
Bradley Walters	AYE
Sagan Sheffield-Smith	ABSENT
Dan Heitzenrater	AYE
Steven Thorpe	AYE
Kevin Muldowney	AYE
Daniel DeMarte	AYE
Amy Harding	ABSENT
Tom Harmon	AYE

The foregoing resolution was thereupon declared duly adopted.

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

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on April 23, 2024 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency 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 at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) there was a quorum of the members of the Agency present throughout said meeting; and (E) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law.

WE 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, we have hereunto set our hand this 23rd day of April, 2024.



[Assistant] Secretary



[Vice] Chairman

EXHIBIT A

Pilot Deviation Notice Letters

See Attached



County of Chautauqua Industrial Development Agency

April 1, 2024

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED
AND FIRST CLASS MAIL

Tom Wik, Town Supervisor
Town of Sheridan
2773 Route 20
Sheridan, NY 14135

Dr. Brad Zillox, Superintendent
Fredonia Central School Dist.
425 East Main Street
Fredonia, NY 14063

Rebecca Schafer, Town Clerk
Town of Sheridan
2773 Route 20
Sheridan, NY 14135

Chautauqua County
County Executive, Wendel
3 North Erie Street
Mayville, NY 14757

Brian Aldrich
School Board President
Fredonia Central School Dist.
425 East Main Street
Fredonia, NY 14063

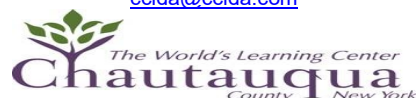
Darci Bigelow, Account Clerk
Fredonia Central School Dist.
425 East Main Street
Fredonia, NY 14063

**NOTICE OF PROPOSED DEVIATION FROM UNIFORM
TAX EXEMPTION POLICY AND GUIDELINES**

Ladies and Gentlemen:

Notice is hereby given that at a meeting of the County of Chautauqua Industrial Development Agency (the "Agency") to be held on April 23, 2024 at 10:30 a.m., local time, simultaneously at the offices of the Agency, 201 West Third Street, Jamestown, County of Chautauqua, New York, the Agency will consider whether to approve the application of ERIE COAST SOLAR, LLC, a limited liability company organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign limited liability company (the "Applicant"), for certain "financial assistance" which, if granted, would

201 W. Third Street, Suite 115, Jamestown, NY 14701-6902
PH 716-661-8900 / FAX 716-664-4515
ccida@ccida.com





County of Chautauqua Industrial Development Agency

deviate from the Agency’s Uniform Tax Exemption Policy and Guidelines (the “Policy”) with respect to the payment of real property taxes.

The Applicant submitted an application for financial assistance (the “Application”) to the Agency requesting that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 17.1 acre portion of an approximately 30.3 acre parcel of land located at 3584 New Road, Town of Sheridan, County of Chautauqua, New York (the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on tracking steel structure, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 2.2 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency.

The Project Facility would be initially owned, operated and/or managed by the Applicant (or such other designated entity(ies) as may be designated by the Applicant and agreed upon by the Agency).

The Application states that the Applicant is seeking an abatement of real property taxes with respect the Project Facility. Based upon negotiations between representatives of the Applicant and the Agency, the parties contemplate that the Agency may agree to grant a real property tax exemption with respect to the Improvements only (the “Property Tax Exemption”). The Property Tax Exemption would result in a payment in lieu of taxes (“PILOT”) agreement between the Agency and the Applicant and/or its affiliates having a term of twenty-five (25) fiscal tax years (the “PILOT Term”), with annual PILOT payments with respect to the Improvements as follows:

PILOT Year	Annual PILOT Payment
1	\$9,350
2	9,537

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PH 716-661-8900 / FAX 716-664-4515
ccida@ccida.com





County of Chautauqua Industrial Development Agency

3	9,728
4	9,922
5	10,121
6	10,323
7	10,530
8	10,740
9	10,955
10	11,174
11	11,398
12	11,626
13	11,858
14	12,095
15	12,337
16	12,584
17	12,836
18	13,092
19	13,354
20	13,621
21	13,894
22	14,171
23	14,455
24	14,744
25	15,039

No exemption from real property taxes and assessments would be granted by the Agency with respect to the Land or the existing improvements thereon and the Land and such improvements would remain on the tax rolls as taxable property subject to taxation at their then current, full assessed value, as the same may be reassessed from time to time, and subject to tax rate increases imposed by the affected tax jurisdictions.

Thereafter, and through the end of the term of the lease or installment sale agreement with respect to the Project Facility, the payments would be equal to the real property taxes and assessments that would be payable as if the Improvements were returned to the tax rolls as taxable property and subject to taxation at its then current, full assessed value, as the same may be reassessed from time to time, and subject to tax rate increases imposed by the affected tax jurisdictions.

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County of Chautauqua Industrial Development Agency

The Property Tax Exemption, if approved by the Agency, would be a deviation from the Policy.

The reason for the proposed deviation is that the Property Tax Exemption, if approved by the Agency, is necessary to induce the Applicant to undertake the Project in Chautauqua County. Deviating from the Policy in this instance will advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and Chautauqua County.

The meeting will be streamed on the Agency's website in real-time and a recording of the meeting will be posted on the Agency's website, all in accordance with Section 857 of the New York General Municipal Law, as amended.

Copies of the Application, including the request for a deviation from the Policy, are available for review by the public online at www.ccida.com. For additional assistance, contact the Agency at (716) 661-8900.

COUNTY OF CHAUTAUQUA INDUSTRIAL
DEVELOPMENT AGENCY

By: Richard E. Dixon
Richard E. Dixon
Chief Financial Officer

**Erie Coast Solar, LLC -
Approving Resolution**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on April 23, 2024, at 10:30 A.M., local time, at the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”).

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

PRESENT:

Gary Henry	Chairman
Bradley Walters	Vice Chairman
Daniel Heitzenrater	Secretary
Steven Thorpe	Member
Daniel DeMarte	Member
Tom Harmon	Member
Kevin Muldowney	Member

NOT PRESENT:

Sagan Sheffield-Smith	Treasurer
Amy Harding	Member

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Mark Geise	Administrative Director/CEO
Milan K. Tyler, Esq.	Counsel
Greg Peterson	Counsel
Kristine Morabito	IDA Staff
Rosie Strandburg	IDA Staff
Carol Rasmussen	IDA Staff
Kayla Strandburg	IDA Staff
Nate Aldrich	IDA Staff
Jeanette Lo Bello	IDA Staff
Crystal Erhard	IDA Staff
Jason Sample	IDA Staff
Paul Wendel	County Executive
Eamon Riley	Erie Coast Solar, LLC
Paige Beyer	Barclay Damon
Greg Bacon	Jamestown Post Journal
Julia Ciesla-Hanley	WRFA 107.9

The attached resolution no. 04-23-24-05 was offered by Steven Thorpe, seconded by Daniel DeMarte:

RESOLUTION TAKING OFFICIAL ACTION TOWARD AND APPROVING THE
STRAIGHT LEASE DOCUMENTS FOR A CERTAIN PROJECT FOR
ERIE COAST SOLAR, LLC AND/OR ITS AFFILIATES

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 71 of the 1972 Laws of New York, as amended, constituting Section 895-h of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and 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, 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 acquire, construct, reconstruct and install one or more “projects” (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, ERIE COAST SOLAR, LLC, a limited liability company organized and existing under the laws of the Delaware and qualified to do business in the State of New York as a foreign limited liability company, on behalf of itself and/or the principals of Erie Coast Solar, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Applicant”), presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 17.1 acre portion of an approximately 30.3 acre parcel of land located at 3584 New Road, Town of Sheridan, County of Chautauqua, New York (the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on tracking steel structure, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 2.2 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or

such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency;
and

WHEREAS, in accordance with Section 859-a of the Act, any approval of the Project is contingent upon, inter alia, a determination by the members of the Agency to proceed with the Project following a determination by the Agency that (A) the public hearing and notice requirements and other procedural requirements contained in the Act relating to the Project have been satisfied; and (B) the undertaking of the Project by the Agency and the granting of the Financial Assistance are and will be in compliance with all other applicable requirements of the Act, SEQRA (as hereinafter defined), and all other statutes, codes, laws, rules and regulations of any governmental authority having jurisdiction over the Project and/or the Project Facility (collectively, the “Applicable Laws”); and

WHEREAS, the Administrative Director/CEO of the Agency (A) caused notice of a public hearing of the Agency pursuant to Section 859-a of the Act (the “Public Hearing”) to hear all persons interested in the Project and the Financial Assistance contemplated by the Agency with respect to the Project, to be mailed on April 1, 2024 to the chief executive officer of the County of Chautauqua (the “County”) and of each other affected tax jurisdiction within which the Project Facility is or is to be located, and posted a copy of the Application on the Agency’s website; (B) caused notice of the Public Hearing to be published on April 2, 2024 in *The Observer*, a newspaper of general circulation available to residents of the County; (C) caused the Public Hearing to be conducted on April 16, 2024, at 10:30 a.m., local time, at Town of Sheridan Community Center, 2773 Route 20, Town of Sheridan, County of Chautauqua, New York; (D) caused the Public Hearing to be streamed on the Agency’s website in real-time and a recording of the Public Hearing to be posted on the Agency’s website, all in accordance with Section 857 of the Act, as amended; and (E) caused a written report of the Public Hearing to be prepared which fairly summarizes the views presented at the Public Hearing and collected written comments from the public (collectively, the “Report”) and distributed the Report to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the New York Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (“NYSDEC”), being 6 N.Y.C.R.R. Part 617, et. seq., as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination whether to undertake the Project; and

WHEREAS, the Town of Sheridan Town Board (“Town Board”) undertook a coordinated review of the Project as lead agency in accordance with SEQRA in which it consulted and coordinated with all other involved and interested agencies, including the Agency; and

WHEREAS, after careful review, the Town Board issued a determination on June 23, 2023, classifying the Project as an unlisted action under SEQRA, and finding that the project will

not result in any significant adverse environmental impact, and therefore, no environmental impact statement need be prepared (“Negative Declaration”); and

WHEREAS, the Agency, as an involved agency, is bound by the Town Board’s Negative Declaration pursuant to 6 N.Y.C.R.R. 617.6(b)(3)(iii), and concurs that the Project is an unlisted action and will not result in any significant adverse environmental impacts, and has no remaining obligations regarding the Project under SEQRA; and

WHEREAS, in accordance with Section 874(4) of the Act, (A) the Administrative Director/CEO of the Agency caused letters dated April 1, 2024 (the “Pilot Deviation Notice Letters”) to be mailed to the chief executive officer of each affected tax jurisdiction and to all other persons required by applicable law, informing said individuals that the Agency would, at its meeting on April 23, 2024 (the “IDA Meeting”), consider a proposed deviation from the Tax Exemption Policy with respect to the payment in lieu of taxes agreement to be entered into by the Agency with respect to the Improvements; and (B) the members of the Agency conducted the IDA Meeting on the date hereof and reviewed any comments and correspondence received with respect to the proposed deviation from the Tax Exemption Policy; and

WHEREAS, the Agency now desires to make its determination to proceed with the Project and to grant the Financial Assistance, subject to the terms hereof; and

WHEREAS, the Applicant and/or one (1) or more of its affiliates will (A) execute and deliver a certain Company Lease Agreement (the “Company Lease”), pursuant to which the Applicant and/or such affiliate(s) will grant to the Agency a leasehold interest in the Project Facility; (B) execute and deliver a certain Agency Lease Agreement (Uniform Project Agreement) (the “Agency Lease”), pursuant to which the Agency will grant to the Applicant and/or such affiliate(s) a subleasehold interest in the Project Facility; (C) execute and deliver a certain Payment in Lieu of Taxes Agreement (the “PILOT Agreement”) pursuant to which the Agency would grant an exemption from real property taxes with respect to the Improvements only; and (D) execute and deliver certain other certificates, documents, instruments and agreements related to the Project (together with the Company Lease, the Agency Lease and the PILOT Agreement, collectively, the “Transaction Documents”);

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

Section 1. In accordance with Section 859-a of the Act, the Agency has prepared a written cost-benefit analysis with respect to the Project and the granting of the Financial Assistance (the “Analysis”). The Agency has reviewed the Application, the Report and the Analysis, and, based upon the representations made by the Applicant to the Agency and information obtained by the Agency, the Agency has reviewed and assessed all material information necessary to afford a reasonable basis for the Agency to make a determination to approve the Financial Assistance. In addition, the Agency hereby makes the following findings and determinations with respect to the Project:

(a) based on the proposed use of the Project Facility as set forth in the Application, the economic effects of the Project on the area in which it is situated, and the employment reasonably expected to be created and/or maintained by the Project, and an analysis of how the Project contributes to the realization of the public purposes of promoting employment opportunities in the County and the prevention of economic deterioration in the County, the Project will constitute a commercial facility with a significant impact on the area in which it is situated, and will advance the Agency's purposes by promoting employment opportunities and preventing economic deterioration in the County. Therefore, the Project constitutes a "project" within the meaning of the Act;

(b) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Applicant to undertake the Project in the County;

(c) there is a likelihood that the Project would not be undertaken but for the granting of the Financial Assistance by the Agency to the Applicant;

(d) the completion of the Project Facility, the sublease thereof by the Agency to the Applicant and the operation thereof by the Applicant will not result in the removal of a facility or plant of the Applicant or any other occupant or user of the Project Facility from one area of the State of New York (the "State") to another area of the State or in the abandonment of one or more plants or facilities of the Applicant or any other occupant or user located within the State (but outside of the County). Therefore, the provisions of subdivision (1) of Section 862 of the Act are not and will not be violated as a result of the granting of the Financial Assistance by the Agency to the Applicant;

(e) the Project will serve the public purposes of the Act by preserving permanent, private sector jobs, and increasing the overall number of permanent, private sector jobs in the State;

(f) no funds of the Agency shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant, nor shall any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State, nor shall any funds of the Agency be used for advertising or promotional materials which depict elected or appointed government officials in either print or electronic media;

(g) the Project Facility does not and will not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project. For purposes of this finding, retail sales shall mean: (i) sales by a registered vendor under Article 28 of the New York Tax Law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section 1101 of the New York Tax Law; or (ii) sales of a service to such customers;

(h) the granting of the Financial Assistance by the Agency with respect to the Project will encourage and assist the Applicant in undertaking the Project in the County, will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of the County and the State and improve their standard of living, and thereby serve the public purposes of the Act; and

(i) the Project will not result in the removal or abandonment of a plant or facility of the Applicant or any other occupant or user of the Project Facility, currently located within the County.

Section 2. The Agency hereby ratifies, confirms and approves all actions heretofore taken by the Administrative Director/CEO, Chief Financial Officer and the staff of the Agency with respect to the Application, the Analysis and the Public Hearing, including, without limitation, (a) those actions required to ensure full compliance with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the Project, and (b) the appointment of the law firm of Phillips Lytle LLP as Counsel to the Agency with respect to all matters in connection with the Project.

Section 3. The Agency hereby determines that the Agency has fully complied with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the Project.

Section 4. Having considered fully all comments received at or in connection with the Public Hearing and the IDA Meeting, including correspondence received subsequent to the Public Hearing, the Agency hereby further determines to proceed with the Project and the granting of the Financial Assistance, subject to the terms hereof. The Agency hereby approves the granting of (a) an exemption from real property taxes having an estimated value of \$360,517, and (b) an exemption from sales and use taxes in the maximum amount of \$200,000.

Section 5. The Agency recognizes that due to the complexities of the proposed transaction it may become necessary that certain of the terms approved hereby may require modifications from time to time which will not affect the intent and substance of the authorizations and approvals by the Agency herein. The Agency hereby authorizes the Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency, acting individually or jointly, to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution, but may include adjustments to the Financial Assistance granted hereunder. The approval of such modifications shall be evidenced by the certificate of determination of an Agency officer or the execution and delivery by some or all such Agency officers of relevant documents containing such modified terms.

Section 6. The Agency is hereby authorized to (a) acquire an interest in the Project Facility pursuant to the Company Lease and the other Transaction Documents, (b) grant a subleasehold interest in the Project Facility pursuant to the Agency Lease and the other Transaction Documents, (c) grant the Financial Assistance, and (d) do all things necessary, convenient or appropriate for the accomplishment thereof. All acts heretofore taken by the Agency with respect to the foregoing are hereby approved, ratified and confirmed.

Section 7. The form and substance of the Transaction Documents, in the forms presented to the members of the Agency, together with such changes as the Chairman, the Vice Chairman, the Administrative Director/CEO or the Chief Financial Officer may hereafter deem necessary or appropriate, are hereby approved. The Chairman, the Vice Chairman, the Administrative Director/CEO and the Chief Financial Officer are hereby authorized, on behalf of the Agency, acting together or individually, to execute and deliver the Transaction Documents to which the Agency is a party and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same. The execution and delivery of each such agreement, approval and consent by such person(s) shall be conclusive evidence of such approval.

Section 8. The Chairman, the Vice Chairman, the Administrative Director/CEO and the Chief Financial Officer of the Agency are hereby further authorized, on behalf of the Agency, acting together or individually, to designate any additional Authorized Representatives (as defined in the Agency Lease) of the Agency.

Section 9. The officers, employees and agents of the Agency are hereby authorized and directed, acting individually or jointly, 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 Transaction Documents, to execute and deliver all such additional certificates, instruments, agreements 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, convenient or appropriate to effect the purposes of this Resolution and to cause compliance with all of the terms, covenants and provisions of the Transaction Documents to which the Agency is a party or which are binding on the Agency.

Section 10. The members of the Agency acknowledge the terms and conditions of Section 875(3) of the Act and the duties and obligations of the Agency thereunder with respect to granting of State Sales and Use Taxes (as such term is defined in Section 875 of the Act) with respect to the Project. The members hereby direct the officers of the Agency to comply with such terms and conditions with respect to the Project and hereby direct Counsel to the Agency to include such terms and conditions in all relevant Transaction Documents.

Section 11. The Chairman, the Vice Chairman, the Administrative Director/CEO and the Chief Financial Officer of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 12. 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:

Gary Henry	AYE
Bradley Walters	AYE
Sagan Sheffield-Smith	ABSENT
Dan Heitzenrater	AYE
Steven Thorpe	AYE
Kevin Muldowney	AYE
Daniel DeMarte	AYE
Amy Harding	ABSENT
Tom Harmon	AYE

The foregoing resolution was thereupon declared duly adopted.

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

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on April 23, 2024 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency 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 at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) there was a quorum of the members of the Agency present throughout said meeting; and (E) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law.

WE 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, we have hereunto set our hand this 23rd day of April, 2024.



[Assistant] Secretary



[Vice] Chairman

Resolution No. 04-23-24-06

**RESOLUTION OF THE COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT
AGENCY PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT
ISSUING A NEGATIVE DECLARATION FOR THE CHAUTAUQUA COUNTY
BROADBAND EXTENSION.**

Name of Project: Chautauqua County Broadband Extension

Location: County of Chautauqua in the area of Brainard Road; Farel Road; Harmon Hill Road; Concord Drive; Hahn Road; Bachellor Hill Road; County Touring Road 73; County Touring Road 58, and; the Chautauqua County/Dunkirk Airport

SEQR Status: Unlisted

**Determination
of Significance:** Negative Declaration

WHEREAS, the County of Chautauqua Industrial Development Agency (the “**Agency**”) is authorized and empowered by the provisions of Chapter 1030 of the Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “**Enabling Act**”) and Chapter 71 of the 1972 Laws of New York, as amended, constituting Section 895-h of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “**Act**”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and 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, 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, among other things, (i) acquire by purchase, lease, gift, bequest, devise or otherwise real or personal property or interests therein; and (ii) acquire, construct, reconstruct and install one or more “projects” (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, the Agency is a recipient of government funding, including without limitation funds appropriated under the American Rescue Plan Act, to be used by the Agency to provide grant funding for the construction of broadband infrastructure and service to locations that lack access to reliable broadband

WHEREAS, the Agency has developed a comprehensive list identifying underserved/unserved locations within the County lacking access to reliable wireline 100/20 Mbps broadband service;

WHEREAS, the Agency entered into an agreement with DFT Communications Corporation (“**DFT**”), a Delaware corporation duly authorized to do business in New York to extend its network infrastructure to reach the specific underserved/unserved locations identified by the Agency through the installation of broadband facilities throughout underserved areas of the County in the vicinity of Brainard Road; Farel Road; Harmon Hill Road; Concord Drive; Hahn Road; Bachellor Hill Road; County Touring Road 73; County Touring Road 58, and; the Chautauqua County/Dunkirk Airport (“**Site**”) to improve internet accessibility (the, “**Project**”); and

WHEREAS, The Project consists of the installation 68 new utility poles (“**New Poles**”) within roadside right-of ways; attachment of fiber optic cable on the New Poles and over lashing of fiber optic cable on existing poles; installation of underground conduit (“**Underground Conduit**”) around the perimeter of the Chautauqua County Airport (“**Airport**”); and the installation of 2 foot by 3 foot conduit access boxes every 300 feet along the Underground Conduit (“**Access Boxes**”).

WHEREAS, pursuant to Article 8 of the New York Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “**SEQR Act**”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (“**NYSDEC**”), being 6 N.Y.C.R.R. Part 617, et. seq., as amended (the “**Regulations**” and collectively with the SEQR Act, “**SEQRA**”), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination whether to undertake the Project; and

WHEREAS, pursuant to SEQRA, to aid the Agency in determining whether the Project may have a significant adverse impact upon the environment, the Agency has completed, received and/or reviewed

- (1) Part 1, 2, and 3 of a Short Environmental Assessment Form (“**EAF**”);
- (2) NYSDEC’s Environmental Resource Mapper (“**NYSDEC Mapper**”);
- (3) NYSDEC’s Environmental Assessment Form Mapper (“**EAF Mapper**”);
- (4) New York State Office of Parks, Recreation, and Historic Preservation Cultural Resource Information Mapper (“**CRIS Mapper**”);
- (5) A letter from NYSDEC dated March 22, 2024, conditionally determining no impacts to state listed threatened and endangered species (“**NYSDEC Letter**”);
- (6) Project location map indicating areas of installation for the New Poles and Underground Conduit (“**Project Map**”); and

- (7) other relevant environmental information (collectively, 1, 2, 3, 4, 5, and 6 shall be referred to as the “**Environmental Information**”); and

WHEREAS, prior to making a recommendation about the potential environmental significance of the Project, the Agency has reviewed the Environmental Information, consulted various information sources, and considered the list of activities which are Type I Actions outlined in Section 617.4 of the SEQRA regulations, the list of activities that are Type II Actions outlined in Section 617.5 of the SEQRA regulations and the criteria for determining significance outlined in Section 617.7 of the SEQRA regulations; and

WHEREAS, a thorough analysis of the Environmental Information and potential environmental impacts associated with the Project reveals that the Project will not have any potentially significant adverse environmental impacts; and

WHEREAS, it is appropriate that the Agency issue a negative declaration pursuant to SEQRA for the Project (“**Negative Declaration**”).

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

Section 1. Based upon a thorough review and examination of the Project and Environmental Information, and upon the Agency’s knowledge of the land and area surrounding the Project site and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings with respect to the Project:

- (A) The Project is an Unlisted Action pursuant to SEQRA;
- (B) The Agency has undertaken an uncoordinated review of the Project in accordance with the requirements of SEQRA; and
- (C) No potentially significant adverse impacts on the environment are noted in the Environmental Information and none are known to the Agency.

Section 2. Based upon the Agency’s review of the Environmental Information and investigations of the potential environmental impacts associated with the Project, considering both the magnitude and importance of each potential environmental impact indicated, and upon the Agency’s knowledge of the Land and surrounding area and such further investigations of the Project and its environmental effects as the Agency has deemed appropriate, the Agency has determined that the Project will not have a significant adverse impact upon the environment. The reasons supporting this determination are as follows:

1. **Impact on Land.** The Project consists of the installation of 68 New Poles amounting to disturbance of approximately .05 acres of previously disturbed land in roadside right-of-ways, and the installation of the Underground Conduit via either a 6 inch wide open trench or through trenchless installation methods along with the installation of the Access Boxes. The total disturbed area of land resulting from the Project is approximately .65 acres, of which only the New Poles and Access Boxes will be permanent in nature. Any

non-permanent disturbed area will be restored to pre-construction conditions. The Project will not involve substantial construction of steeply graded lands or involve actions which could create conditions highly susceptible to erosion. Additionally, the Project will not impact or deter existing or future adjacent land use. Accordingly because the Project involves minimal disturbance of previously disturbed lands, spread across the entirety of the County, the Project will not have any significant adverse impacts to land resources

2. Impact on Geological Features. The Project does not contain, and is not adjacent to, any unique geologic features or National Natural Landmarks. Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to geological features.
3. Impact on Surface Water. The EAF notes the potential existence of wetlands or other waterbodies located on the Site based on the general area of the Project. Consultation with the NYSDEC Mapper confirms that no wetlands exist in the vicinity of the areas of disturbance of the New Poles, Underground Conduit, or Access Boxes. Additionally, the Project disturbs less than one acre of land and is not anticipated to substantially increase stormwater runoff. Accordingly, the Project will not create any significant adverse impacts on water.
4. Impact on Groundwater. The Project does not entail the types of activities or operations that would be associated with any risks to groundwater. Additionally, no bulk storage of petroleum or chemical products, or any other activities which would entail any risk to groundwater are a part of the Project. Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to groundwater.
5. Impact on Flooding. The EAF states that the Project will not result in the development of lands which are subject to flooding, and does not include the impoundment of water. Further, the Project does not consist of the creation of large areas of impervious surfaces which would result in increased propensity for flooding. Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to flooding.
6. Impact on Air. The Project will not be a significant source of air emissions. The Project does not entail the types of activities or operations that require the Applicant to acquire air registration permits or that are associated with a significant potential for air emissions. Any impacts to air quality from construction activities will be minor, and temporary in nature. Accordingly, the Project is not anticipated to create any significant adverse impacts to air resources.
7. Impact on Plants and Animals. Given the limited amount of disturbance resulting from the Project, it is not expected to cause significant impacts to plants and animals. The EAF Mapper indicates the potential presence of state listed threatened and endangered species, namely the Short-Eared Owl. However, the NYSDEC Letter states that provided construction of the Project is limited to the time period of April 1 to October 31, the Project will not result in the taking of any state listed threatened and endangered species and no Part 182 Incidental Take Permit is required. DFT has agreed to limit construction of the Project to this time period. Accordingly, the Project is not anticipated to create any

significant adverse impacts to plants, animals or natural communities, or wildlife habitat.

8. Impact on Agricultural Land Resources. Portions of the Project may be within an existing Agricultural District, however the area to be disturbed by the Project is not utilized for agricultural purposes as construction will take place only in existing, previously disturbed, roadside right-of-ways. The Project does not entail the types of activities or operations that would be associated with any risk to adjacent agricultural lands. Therefore, the Project will not create any significant adverse impacts to agricultural land resources.
9. Impact on Aesthetic Resources. The Project is consistent with other utility facilities within the County and is not expected to be substantially visible from any officially designated federal, state or local scenic or aesthetic resources and the Project is consistent with existing utility development in the County. Accordingly, the Project is not anticipated to create any significant adverse impacts to aesthetic resources.
10. Impact on Historic and Archaeological Resources. The Project does not contain, nor is it adjacent to, a building, archeological site or district which is listed on, or that has been nominated to the State or National Register of Historic Places. Although the EAF identified the general Project area as being in the vicinity of historical or archaeological resources, the location construction of the New Poles, Underground Conduit, and Access Boxes are not adjacent to historical archaeological resources and will be located on previously disturbed lands such as roadways. Accordingly, the Project will not create any significant adverse impacts to historical or archaeological resources.
11. Impact on Open Space and Recreation. The Project does not involve construction on land comprised of public open space or surrounding area currently used for public recreation, but rather is limited to previously disturbed areas in roadside right-of-ways. Accordingly, the Project will not create any significant impacts to open space or recreational resources.
12. Impact on Critical Environmental Areas. The Project is not located in or substantially contiguous to any Critical Environmental Areas. As such, the Project will not create any significant adverse impacts to Critical Environmental Areas.
13. Impact on Transportation. The Project does not entail the types of activities or operations that would be associated with a substantial increase in the flow of traffic. As such, the Project is not anticipated to create any significant adverse impacts to transportation.
14. Impact on Energy. The Project does not entail the types of activities or operations that would be associated with a substantial increase in the use of energy. As such, the Project will not create any significant adverse impacts to energy resources.
15. Impact on Noise, Odor and Light. The Project does not entail the types of activities or operations that would be associated with a substantial increase in ambient noise levels or, odors, or excessive lighting. Further, any impacts to noise and/or odor from construction activities will be minor, and temporary in nature. Accordingly, the Project is not anticipated to create any significant adverse impacts to noise, odors or light.

16. Impact on Public Health. The Project does not entail the types of activities or operations that are associated with a significant potential for affecting public health, such as storing large amounts of hazardous or toxic materials. Any solid waste generated during construction of the Project will be properly disposed of pursuant to Federal, State and local laws and regulations. Additionally, the increased access to broadband will likely have an increase in the ability to notify and coordinate emergency services to communities in the Project area. Accordingly, the Project is not anticipated to create any significant adverse impact to public health.
17. Impact on Character of the Community, and Community Plans. The Project will not result in significant population growth, but rather is designed to serve already existing but underserved communities. The Project is consistent with the character of the existing utility facilities in the area in which it is located. Accordingly, the Project will not create any significant adverse impacts to the character of the community or community plans.

Section 3. Since the Project will not have a significant adverse impact on the environment, a Negative Declaration pursuant to SEQRA is hereby issued. This Negative Declaration has been prepared pursuant to and in accordance with the requirements of SEQRA.

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. This Resolution, which is adopted by a majority vote of the Agency, shall serve as a Negative Declaration (as defined in 6 N.Y.C.R.R. 617.2(y)), and is issued by the Agency pursuant to and in accordance with SEQRA, shall take effect immediately.

Section 6. For further information on this Determination of Significance/Negative Declaration contact:

County of Chautauqua Industrial Development Agency
201 West 3rd Street, Suite 115
Jamestown, New York 14701-6902
ATTN: Mark Geise, Administrative Director/CEO
Phone: 716-661-8900
Fax: 716-664-4515

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

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on April 23, 2024 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency 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 at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) there was a quorum of the members of the Agency present throughout said meeting; and (E) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law.

WE 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, we have hereunto set our hand this 23rd day of April, 2024.



[Assistant] Secretary



[Vice] Chairman

Project:

Date:

***Short Environmental Assessment Form
Part 2 - Impact Assessment***

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept “Have my responses been reasonable considering the scale and context of the proposed action?”

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?		
2. Will the proposed action result in a change in the use or intensity of use of land?		
3. Will the proposed action impair the character or quality of the existing community?		
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?		
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?		
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?		
7. Will the proposed action impact existing:		
a. public / private water supplies?		
b. public / private wastewater treatment utilities?		
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?		
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?		
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?		
11. Will the proposed action create a hazard to environmental resources or human health?		

Project:

Date:

Short Environmental Assessment Form Part 3 Determination of Significance

For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Name of Lead Agency

Date

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from Responsible Officer)