

FINGER LAKES ECONOMIC DEVELOPMENT CENTER  
1 Keuka Business Park, Suite 104  
Penn Yan, NY 14527  
Telephone: 315-536-7328

**MINUTES OF THE REGULAR BOARD MEETING OF THE FINGER LAKES ECONOMIC DEVELOPMENT CENTER**

May 18, 2016

FLEDC MEMBERS PRESENT: Gene Pierce  
Jim Willson  
Jerry Hiller  
Mark Morris  
Rita Gow  
Taylor Fitch

FLEDC MEMBERS ABSENT: Mary Zelazny

STAFF: Steve Griffin  
Kari DeWick  
Doreen Jensen

GUESTS: John Christensen  
Tim Dennis

Chair G. Pierce called the meeting to order at 7:33 A.M.

Roll call was taken; a quorum was present. Introduction of guests were made.

*A motion was made by J. Willson and seconded by T. Fitch to go into Executive Session at 7:34 AM to discuss a particular company's financial history. Motion passed.*

*A motion was made by T. Fitch and seconded by R. Gow to come out of Executive Session at 7:45 AM. Motion passed.*

There was no action taken in Executive Session.

**MINUTES**

*A motion was made by J. Hiller and seconded by M. Morris to approve the April 20, 2016 minutes as written. Motion passed.*

*A motion was made by T. Fitch and seconded by J. Willson to approve the May 11, 2016 special meeting minutes as written. Motion passed.*

**AGENDA CHANGES**

There were no agenda changes.

## **FINANCE COMMITTEE**

D. Jensen reviewed the April financials and all bills to be paid. *A motion was made by J. Willson and seconded by M. Morris to approve the April financials, and to pay all bills submitted as presented. Motion passed.*

There was discussion on potential tenants for 109 Horizon Business Park.

Receivables and the loan reports were also reviewed.

## **MANAGEMENT REPORT**

The following updates were given to the Management Report:

S. Griffin reviewed the URI Downtown Revitalization program. He is working on an application on behalf of the Village of Penn Yan.

S. Griffin reported that Empire State Development finally approved the GAIN(Growing the Agriculture Industry Now)fund through the Genesee Finger Lakes Regional Planning Council. Yates County's share of this fund is approx. \$218,000.

S. Griffin reported there has been activity on the Garrett Winery building.

K. DeWick thanked John Christensen for the great article on the Yates Young Professional Club. K. DeWick reviewed the last meeting of the Young Professionals. There continues to be great ideas and discussions. Next meeting is May 23<sup>rd</sup> where they will branch out in groups.

K. DeWick reported that she worked on five loans over the past month.

S. Griffin reported that K. DeWick is working on setting up a tour of Ellicottville. G. Pierce reported they have a lot going in that area especially on the Niagara peninsula. T. Dennis and G. Pierce expressed an interest in participating in the tour.

## **NEW BUSINESS**

K. DeWick reviewed the Vineyard View Winery loan request. They are requesting \$40,000 to build a 40' x 70' production facility. The Loan Committee approved this loan. The total project cost is \$80,000. The loan would be for five years at 1%. Collateral would be a second on mortgage with Lyons National Bank and a UCC on winery and production equipment and inventory. Personal guarantees would be signed by Adam Folts and Mike Folts. *A motion was made by T. Fitch and seconded by R. Gow to approve the loan to Vineyard View for \$40,000 for five years at 1%. Collateral would be a second on mortgage with Lyons National Bank and a UCC on winery and production equipment and inventory. Personal guarantees to be signed by Adam Folts and Mike Folts. Motion passed.*

S. Griffin reported that FLX International needed to extend their lease for one year to for a three year lease to coincide with their NYS legal licenses. ***A motion was made by J. Willson and seconded by J. Hiller to authorize the Chair to sign the lease with FLX International. Motion passed.***

S. Griffin reviewed the 4-M Rebuilt, LLC project. This is a \$770,000 total project. The incentives are projected to be \$184,000 so the project needs a public hearing to be held. The economic benefit over the life of the project is \$11,000,000.

***The following resolution was offered by Mark Morris, seconded by Rita Gow, to wit:***

***RESOLUTION AUTHORIZING THE CHIEF EXECUTIVE OFFICER OF YATES COUNTY INDUSTRIAL DEVELOPMENT AGENCY TO HOLD A PUBLIC HEARING REGARDING A PROPOSED PROJECT TO BE UNDERTAKEN FOR THE BENEFIT OF 4M REBUILT, LLC.***

WHEREAS, Yates County Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws 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 113 of the 1975 Laws of New York, as amended, constituting Section 893-b 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 manufacturing, warehousing, research, commercial and industrial 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, 4M Rebuilt, LLC, a New York limited liability company (the “Company”), has submitted an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately three (3) acre parcel of land located at State Route 14A (Tax Map # 61.36-1-3.11) in the Town of Milo, Village of Penn Yan, Yates County, New York (the “Land”), (2) the construction of a new building on the Land to contain approximately 11,200 square feet of space (the “Facility”), and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to be owned by the Company and leased to Barney Moravec, Inc. and Moravec Geothermal for operation as a drilling and contracting facility and other directly and indirectly

related activities; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, pursuant to Section 859-a of the Act, prior to the Agency providing any “financial assistance” (as defined in the Act) of more than \$100,000 to any project, the Agency, among other things, must hold a public hearing pursuant to Section 859-a of the Act with respect to said project; and

WHEREAS, the Agency desires to provide for compliance with the provisions of Section 859-a of the Act with respect to the Project;

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

Section 1. The Agency hereby authorizes the Chief Executive Officer of the Agency, after consultation with the members of the Agency and Agency Counsel, (A) to establish the time, date and place for a public hearing of the Agency to hear all persons interested in the Project (the “Public Hearing”); (B) to cause the Public Hearing to be held in a city, town or village where the Project Facility is or is to be located, and to cause notice of such Public Hearing to be given to the public by publishing a notice or notices of such Public Hearing in a newspaper of general circulation available to the residents of the governmental units where the Project Facility is or is to be located, such notice or notices to comply with the requirements of Section 859-a of the Act; (C) to cause notice of the Public Hearing to be given to the chief executive officer of the county and of each city, town, village and school district in which the Project Facility is or is to be located to comply with the requirements of Section 859-a of the Act; (D) to conduct such Public Hearing; (E) to cause a report of the Public Hearing fairly summarizing the views presented at such Public Hearing (the “Report”) to be prepared; and (F) to cause a copy of the Report to be made available to the members of the Agency.

Section 2. The Chairman, Vice Chairman and/or Chief Executive Officer of the Agency is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 3. All action taken by the Chief Executive Officer of the Agency in connection with the Public Hearing with respect to the Project prior to the date of this Resolution is hereby ratified and confirmed.

Section 4. 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:

|                  |        |           |
|------------------|--------|-----------|
| Gene Pierce      | VOTING | Yes       |
| Jerry Hiller     | VOTING | Yes       |
| Mary Ann Zelazny | VOTING | Absent    |
| Rita Gow         | VOTING | Yes       |
| Mark Morris      | VOTING | Yes       |
| Taylor Fitch     | VOTING | Yes       |
| James Willson    | VOTING | _____ Yes |

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned Secretary of Yates County Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 18, 2016 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the 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, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 18th day of May, 2016.

\_\_\_\_\_  
Secretary

(SEAL)

M. Morris reviewed the background information regarding public transportation. M. Morris is requesting support from the FLEDC in a letter addressed to the County in support of the ARC of Yates transportation. There was discussion on this. S. Griffin reported this would be beneficial to pool labor from other areas. ***A motion was made by J. Hiller and seconded by R. Gow that the FLEDC support County transportation funding. Motion passed.*** CEO to write letter of support for public transportation.

S. Griffin reported that he is requesting the FLEDC do a base sponsorship of the New York State Economic Development Council's Annual Meeting. S. Griffin reported that Empire State Development will be sending over 30 people this year. There will be regional directors, new attendees and site consultants attending this year as well. ***A motion was made by T. Fitch and seconded by J. Willson to sponsor the New York State Economic Development Council's Annual Meeting for \$500. Motion passed.***

T. Dennis commented that the FLEDC Chair should attend the annual meeting in the future.

S. Griffin reviewed the B25 Studios project parameters. We need to approve the SEQR and Approving Resolutions. The Village of Penn Yan was the lead Agency for SEQR. It is a Negative Declaration. M. Morris and R. Gow both acknowledged that they have personal relationship with Ken Buschner but there is not a financial relationship.

***The following resolution was offered by Taylor Fitch, seconded by Jim Willson, to wit:***

***RESOLUTION ACCEPTING THE DETERMINATION BY THE VILLAGE OF PENN YAN TO ACT AS LEAD AGENCY FOR THE ENVIRONMENTAL REVIEW OF THE KENNETH BUSCHNER/B25 STUDIOS PROJECT AND ACKNOWLEDGING RECEIPT OF THE NEGATIVE DECLARATION ISSUED WITH RESPECT THERETO.***

WHEREAS, Yates County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws 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 113 of the 1975 Laws of New York, as amended, constituting Section 893-b 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 and install one or more "projects" (as defined in the Act) or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, Kenneth Buschner and Michelle Buschner, each an individual residing in the State of New York (collectively hereinafter referred to as the "Company"), submitted an application (the

“Application”) to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in a portion of a parcel of land located at State Route 14A (Tax Map # 61.36-1-3.11) in the Town of Milo, Village of Penn Yan, Yates County, New York (the “Land”), (2) the construction on the Land of a new facility to contain approximately 2,400 square feet of space (the “Facility”), and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to be owned and operated by the Company and leased to B25 Studios to constitute a photography facility and other directly and indirectly related activities, (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”) and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), the Agency has been informed that (A) the Village of Penn Yan Planning Board (the “Planning Board”) was designated to act as the “lead agency” with respect to the Project and (B) on April 4, 2016 the Planning Board determined that that the Project is a “unlisted action” which will not have a “significant effect on the environment” and, therefore, that an “environmental impact statement” is not required to be prepared with respect to the Project and issued a negative declaration with respect thereto (the “Negative Declaration”); and

WHEREAS, at the time that the Planning Board determined itself to be the “lead agency” with respect to the Project, it was not known that the Agency was an “involved agency” with respect to the Project, and, now that the Agency has become an “involved agency” with respect to the Project, the Agency desires to concur in the designation of the Planning Board as “lead agency” with respect to the Project, to acknowledge receipt of a copy of the Negative Declaration and to indicate that the Agency has no information to suggest that the Planning Board was incorrect in determining that the Project will not have a “significant effect on the environment” pursuant to SEQRA;

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

Section 1. (A) The Agency has received copies of, and has reviewed, the Application, an environmental assessment form prepared by the Company and the Negative Declaration (collectively, the “Reviewed Documents”) and, based upon said Reviewed Documents and the representations made by the Company to the Agency at this meeting, the Agency hereby ratifies and concurs in the designation of the Planning Board as “lead agency” with respect to the Project (as such quoted term is defined in SEQRA).

(B) The Agency hereby determines that the Agency has no information to suggest that the Planning Board was incorrect in determining that the Project will not have a “significant effect on the environment” pursuant to SEQRA (as such quoted phrase is used in SEQRA).

Section 2. 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:

|                  |        |        |
|------------------|--------|--------|
| Gene Pierce      | VOTING | Yes    |
| Jerry Hiller     | VOTING | Yes    |
| Mary Ann Zelazny | VOTING | Absent |
| Rita Gow         | VOTING | Yes    |
| Mark Morris      | VOTING | Yes    |
| Taylor Fitch     | VOTING | Yes    |
| James Willson    | VOTING | Yes    |

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The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned Secretary of Yates County Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 18, 2016 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the 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, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 18<sup>th</sup> day of May, 2016.

\_\_\_\_\_  
Secretary

(SEAL)

*The following resolution was offered by Jim Willson, seconded by Jerry Hiller, to wit:*

**RESOLUTION AUTHORIZING EXECUTION OF DOCUMENTS IN CONNECTION WITH A LEASE/LEASEBACK TRANSACTION FOR A COMMERCIAL PROJECT FOR KENNETH BUSCHNER/B25 STUDIOS.**

WHEREAS, Yates County Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws 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 113 of the 1975 Laws of New York, as amended, constituting Section 893-b 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 manufacturing, warehousing, research, commercial and industrial 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, Kenneth Buschner and Michelle Buschner, each an individual residing in the State of New York (collectively hereinafter referred to as the “Company”), submitted an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in a portion of a parcel of land located at State Route 14A (Tax Map # 61.36-1-3.11) in the Town of Milo, Village of Penn Yan, Yates County, New York (the “Land”), (2) the construction on the Land of a new facility to contain approximately 2,400 square feet of space (the “Facility”), and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to be owned and operated by the Company and leased to B25 Studios to constitute a photography facility and other directly and indirectly related activities, (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”) and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, pursuant to the Application, and the representations made to the Agency by the Company, the Agency will not provide more than \$100,000 of Financial Assistance to the Company; therefore, Section 859-a of the Act does not require a public hearing be held with respect to the Project; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), the Agency has been informed that (A) the Village of Penn Yan Planning Board (the “Planning Board”) was designated to act as the “lead agency” with respect to the Project and (B) on April 4, 2016 the Planning Board determined that that the Project is a “unlisted action” which will not have a “significant effect on the environment” and, therefore, that an “environmental impact statement” is not required to be prepared with respect to the Project and issued a negative declaration with respect thereto (the “Negative Declaration”); and

WHEREAS, the Agency has given due consideration to the Application, and to representations by the Company that (A) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Company to undertake the Project in Yates County, New York and (B) the completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility located in the State of New York; and

WHEREAS, the Agency desires to encourage the Company to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of Yates County, New York by undertaking the Project in Yates County, New York; and

WHEREAS, in order to consummate the Project and the granting of the Financial Assistance, the Agency proposes to enter into the following documents (hereinafter collectively referred to as the “Agency Documents”): (A) a certain lease to agency (the “Lease to Agency” or the “Underlying Lease”) by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company will lease to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the “Leased Premises”); (B) a certain license agreement (the “License to Agency” or the “License Agreement”) by and between the Company, as licensor, and the Agency, as licensee, pursuant to which the Company will grant to the Agency (1) a license to enter upon the balance of the Land (the “Licensed Premises”) for the purpose of undertaking and completing the Project and (2) in the event of an occurrence of an Event of Default by the Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement (as hereinafter defined); (C) a lease agreement (and a memorandum thereof) (the “Lease Agreement”) by and between the Agency and the Company, pursuant to which, among other things, the Company agrees to undertake the Project as agent of the Agency and the Company

further agrees to lease the Project Facility from the Agency and, as rental thereunder, to pay the Agency's administrative fee relating to the Project and to pay all expenses incurred by the Agency with respect to the Project; (D) a payment in lieu of tax agreement (the "Payment in Lieu of Tax Agreement") by and between the Agency and the Company, pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility; (E) a project benefits agreement (the "Project Benefits Agreement") by and between the Agency and the Company regarding the granting of the financial assistance and the potential recapture of such assistance; (F) a recapture agreement (the "Section 875 GML Recapture Agreement") by and between the Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes; (G) a sales tax exemption letter (the "Sales Tax Exemption Letter") to ensure the granting of the sales tax exemption which forms a part of the Financial Assistance; (H) a New York State Department of Taxation and Finance form entitled "IDA Appointment of Project Operator or Agency for Sales Tax Purposes" (the form required to be filed pursuant to Section 874(9) of the Act) (the "Thirty-Day Sales Tax Report") and any additional report to the Commissioner of the State Department of Taxation and Finance concerning the amount of sales tax exemption benefit for the Project (the "Additional Thirty-Day Project Report"); (I) if the Company intends to finance the Project with borrowed money, a mortgage and any other security documents and related documents (collectively, the "Mortgage") from the Agency and the Company to the Company's lender with respect to the Project ("the "Lender"), which Mortgage will grant a lien on and security interest in the Project Facility to secure a loan from the Lender to the Company with respect to the Project (the "Loan"); and (J) various certificates relating to the Project (the "Closing Documents");

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

Section 1. The law firm of Hodgson Russ LLP is hereby appointed Special Counsel to the Agency with respect to all matters in connection with the Project. Special Counsel for the Agency is hereby authorized, at the expense of the Company, to work with the Company, counsel to the Company, counsel to the Agency and others to prepare, for submission to the Agency, all documents necessary to effect the transactions contemplated by this Resolution. Special Counsel has prepared and submitted an initial draft of the Agency Documents to staff of the Agency.

Section 2. The Agency hereby finds and determines that:

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

(B) The Project constitutes a "project," as such term is defined in the Act;

(C) The Project site is located entirely within the boundaries of Yates County, New York;

(D) It is estimated at the present time that the costs of the planning, development, acquisition, construction and installation of the Project Facility (collectively, the “Project Costs”) will be approximately \$157,300;

(E) The completion of the Project will not result in the removal of a plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State of New York to another area of the State of New York or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State of New York;

(F) The Agency will not provide more than \$100,000 of Financial Assistance to the Company; therefore, Section 859-a of the Act does not require a public hearing be held with respect to the Project;

(G) The Project does not constitute a project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constituting more than one third of the total project cost;

(H) The granting of the Financial Assistance by the Agency with respect to the Project will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Yates County, New York and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act; and

(I) It is desirable and in the public interest for the Agency to enter into the Agency Documents.

Section 3. In consequence of the foregoing, the Agency hereby determines to: (A) proceed with the Project; (B) acquire, construct and install the Project Facility; (C) lease the Project Facility to the Company pursuant to the Lease Agreement; (D) enter into the Payment in Lieu of Tax Agreement; (E) secure the Loan by entering into the Loan Documents; and (F) grant the Financial Assistance with respect to the Project.

Section 4. The Agency is hereby authorized (A) to acquire a license in the Licensed Premises pursuant to the License Agreement, (B) to acquire a leasehold interest in the Leased Premises pursuant to the Underlying Lease, (C) to acquire title to the Equipment pursuant to a bill of sale (the “Bill of Sale to Agency”) from the Company to the Agency, and (D) to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisitions are hereby approved, ratified and confirmed.

Section 5. The Agency is hereby authorized to acquire, renovate, construct and install the Project Facility as described in the Lease Agreement and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with

respect to such acquisition, renovation, construction and installation are hereby ratified, confirmed and approved.

Section 6. The Chairman (or Vice Chairman) of the Agency, with the assistance of Agency Counsel and/or Special Counsel, is authorized to negotiate and approve the form and substance of the Agency Documents.

Section 7. (A) The Chairman (or Vice Chairman) of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agency Documents, 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, all in the forms thereof as the Chairman (or Vice Chairman) shall approve, the execution thereof by the Chairman (or Vice Chairman) to constitute conclusive evidence of such approval.

(B) The Chairman (or Vice Chairman) of the Agency is hereby further authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 8. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing Resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 9. This Resolution shall take effect immediately.

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

|                  |        |        |
|------------------|--------|--------|
| Gene Pierce      | VOTING | Yes    |
| Jerry Hiller     | VOTING | Yes    |
| Mary Ann Zelazny | VOTING | Absent |
| Rita Gow         | VOTING | Yes    |
| Mark Morris      | VOTING | Yes    |
| Taylor Fitch     | VOTING | Yes    |
| James Willson    | VOTING | Yes    |

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned Secretary of Yates County Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 18, 2016 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the 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, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 18<sup>th</sup> day of May, 2016.

\_\_\_\_\_  
Secretary

(SEAL)

J. Hiller asked Staff to look into the new Federal Law regarding overtime pay for salaried employees.

***A motion was made by J. Willson and seconded by M. Morris to adjourn the meeting at 8:33 A.M.  
Motion passed.***

Respectfully submitted,

Doreen J. Jensen