

100806000723

CERTIFICATE OF INCORPORATION  
of  
FINGER LAKES HORIZON ECONOMIC DEVELOPMENT CORPORATION

A Not-For-Profit Corporation  
Under Section 402 of the Not-For-Profit  
Corporation Law of the State of New York

THE UNDERSIGNED, being over the age of eighteen years, for the purpose of forming a not-for-profit corporation pursuant to Section 402 of the Not For Profit Corporation Law of the State of New York (the "NFPCL"), hereby certifies as follows:

FIRST: The name of the corporation is Finger Lakes Horizon Economic Development Corporation (hereinafter referred to as the "Corporation").

SECOND: The Corporation will be a corporation as defined in subparagraph (a)(5) of Section 102 of the N-PCL and will be a Type C Corporation as defined in Section 201 of the N-PCL. The Corporation is a public instrumentality of, but separate and apart from, Yates County Industrial Development Agency (the "Agency").

THIRD: The Corporation is to be formed and operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and for the specific purpose of:

(a) promoting community and economic development and the creation of jobs in the non-profit and for-profit sectors for the citizens of Yates County, New York (the "County"); and

(b) undertaking projects within the County for the purpose of relieving and reducing unemployment, bettering and maintaining job opportunities and by encouraging the development of, or retention of, an industry in the County, and lessening the burdens of government and acting in the public interest.

By means of engaging in the following activities:

(i) entering into contracts with any other economic development organizations to help achieve the purposes described in subparagraphs (a) and (b) above;

(ii) in general, performing any and all acts and things, and exercise and any and all powers which may now or hereafter be lawful for the Corporation to do or exercise under and pursuant to the laws of the State of New York for the purpose of accomplishing any of the foregoing purposes of the Corporation.

FOURTH: The activities referred to in the subparagraphs of paragraph THIRD above will achieve the lawful public objective of lessening the burdens of government, the carrying out of such purposes and the exercise of the powers conferred on the Corporation being the performance of an essential governmental function, it being understood that the performance of such activities will assist the County in reducing unemployment and promoting additional job growth and economic development.

FIFTH: The operations of the Corporation will be conducted within the territory of the County. Notwithstanding any other provision of this Certificate of Incorporation, the by-laws and any

provision of law, so long as any Obligations remain outstanding, the Corporation will not do any of the following:

(a) engage in any business or activity other than as set forth in paragraph THIRD;

(b) without the consent of the Agency and the affirmative vote of two thirds of the members of the Board of Directors of the Corporation, (i) dissolve or liquidate, in whole or in part, or institute proceedings to be adjudicated bankrupt or insolvent, (ii) consent to the institution of bankruptcy or insolvency proceedings against it, (iii) file a petition seeking or consent to reorganization or relief under any applicable federal or state law relating to bankruptcy or insolvency, (iv) consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Corporation or a substantial part of its property, (v) make a general assignment for the benefit of creditors, (vi) admit in writing its inability to pay its debts generally as they become due or (vii) take any corporate action in furtherance of the actions set forth in clauses (i) through (vi) of this paragraph; or

(c) without the consent of the Agency and the affirmative vote of two thirds of the members of the Board of Directors of the Corporation, merge or consolidate with any other corporation, company or entity or, except to the extent contemplated by paragraph THIRD hereof, sell all or substantially all of its assets or acquire all or substantially all of the assets or capital stock or other ownership interest of any other corporation, company or entity.

SIXTH: Pursuant to the requirements of Section 402 of the Not-For-Profit Corporation Law:

(a) All income and earnings of the Corporation will be used exclusively for its corporate purposes.

(b) No part of the income or earnings of the Corporation will inure to the benefit or profit of, nor will any distribution of its property or assets be made to, any member, director or officer of the Corporation, or private person, corporate or individual, or to any other private interest, except that the Corporation may repay loans made to it and may repay contributions (other than dues) made to it to the extent that any such contribution may not be allowable as a deduction in computing taxable income under the Internal Revenue Code of 1986, as amended.

SEVENTH: (a) The Corporation will not attempt to influence legislation by propaganda or otherwise, or participate in or intervene, directly or indirectly, any political campaign on behalf of or in opposition to any candidate for public office.

(b) The Corporation will not engage in any activities not permitted to be carried on by an organization exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

EIGHTH: In the event of the dissolution of the Corporation or the winding up of its affairs, the Board of Directors will, after paying or making provision for the payment of all of the liabilities of the Corporation, distribute all of the remaining assets and property of the Corporation to the Agency, so that the Agency can use such assets and property to accomplish the purposes for which the Corporation exists. Any of such assets not so disposed of will be disposed of by order of the Supreme Court of the State of New York pursuant to Section 1008 of the N-PCL.

NINTH: The office of the Corporation will be located in Yates County, New York. The Corporation at all times will:

(a) upon request by the Agency, the Corporation will make available any and all books and records of the Corporation for inspection by the Chairman of the Agency and his or her staff; and

(b) submit to the Agency an annual financial report together with a report of the operations and accomplishments of the Corporation for such annual period.

(c) The governing body of the Agency will have the right to conduct an annual audit of the books and records of the Corporation.

TENTH: The Agency is the sole member of the Corporation.

ELEVENTH: The Corporation will be managed by a Board of Directors, who are to be comprised of those persons named in paragraph TWELFTH hereof (the "Directors"). Each of the Directors will serve at the pleasure of the governing body of the Agency and continue to hold office until his successor is appointed by the governing body of the Agency.

The Corporation is deemed to be a public body (as such term is defined in the Open Meetings Law) and, as such, each meeting of the Board of Directors of the Corporation will be conducted in the manner prescribed by the Open Meetings Law. The Directors will not receive compensation for services provided to or on behalf of the Corporation.

TWELFTH: The Corporation will consist of not less than three nor more than seven Directors. The Directors will be appointed by the governing body of the Agency and will include (a) the Chairman of Yates County Industrial Development Agency, (b) the Vice-Chairman of Yates County Industrial Development Agency, (c) the Treasurer of Yates County Industrial Development Agency, and (d) any additional members of Yates County Industrial Development Agency.

(a) The names and addresses of the initial Directors of the Corporation are as follows:

(i) Kevin Bailey, c/o Finger Lakes Horizon Economic Development Corporation, at One Keuka Business Park in Penn Yan, Yates County, New York, 14527.

(ii) Jerry C. Hiller, c/o Finger Lakes Horizon Economic Development Corporation, at One Keuka Business Park in Penn Yan, Yates County, New York, 14527.

(iii) Craig E. Densmore, c/o Finger Lakes Horizon Economic Development Corporation, at One Keuka Business Park in Penn Yan, Yates County, New York, 14527.

(iv) Bob Corcoran, c/o Finger Lakes Horizon Economic Development Corporation, at One Keuka Business Park in Penn Yan, Yates County, New York, 14527.

(v) Jim Long, c/o Finger Lakes Horizon Economic Development Corporation, at One Keuka Business Park in Penn Yan, Yates County, New York, 14527.

(vi) Rodman Williams, c/o Finger Lakes Horizon Economic Development Corporation, at One Keuka Business Park in Penn Yan, Yates County, New York, 14527.

(vii) Tim Dennis, c/o Finger Lakes Horizon Economic Development Corporation, at One Keuka Business Park in Penn Yan, Yates County, New York, 14527.


It is acknowledged that the Directors hold comparable positions with Yates County Industrial Development Agency, which was established by Chapter 113 of the 1975 Laws of the State of New York, as amended. By reason of the similar public purposes of the Corporation and the Agency, none of the Directors of the Corporation will be deemed to have a conflict of interest solely due to such person's position with the Agency.

THIRTEENTH: The Secretary of State of the State of New York is designated as agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State will mail a copy of any process against the Corporation served upon him or her is Finger Lakes Horizon Economic Development Corporation, One Keuka Business Park in Penn Yan, Yates County, New York, 14527. Attn: Steve Griffin, Chief Executive Officer.

FOURTEENTH: The By-laws of the Corporation may be adopted, amended or repealed by a majority of the Directors of the Corporation upon 10 days notice to all of the Directors, provided, however, that the Corporation will not amend, alter, change or repeal any provision of the adopted By-laws without the consent of the Chairman of the Agency.

FIFTEENTH: The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in any manner now or hereafter provided herein or by statute; provided, however, that (1) the Corporation will not amend, alter, change or repeal any provision of this Certificate of Incorporation without the affirmative vote of two-thirds of the members of the Board of Directors of the Corporation and the consent of the Chairman of the Agency, and (2) the Corporation will not amend or change any provision of this Certificate of Incorporation without first providing the Chairman of the Agency and the Directors with 10 days advance notice of any proposed amendment, alteration, change or repeal.

IN WITNESS WHEREOF, this certificate has been subscribed by the undersigned this 5th day of August, 2010.

  
\_\_\_\_\_  
Christopher M. Martell, Incorporator  
Hodgson Russ LLP  
677 Broadway, Suite 301  
Albany, New York 12207

100806000 723

**CERTIFICATE OF INCORPORATION**  
**OF**  
**FINGER LAKES HORIZON ECONOMIC DEVELOPMENT CORPORATION**

Under Section 402 of the Not-For-Profit  
Corporation Law of the State of New York

Filed by: Christopher M. Martell, Esq.  
Hodgson Russ LLP  
677 Broadway, Suite 301  
Albany, New York 12207

STATE OF NEW YORK  
DEPARTMENT OF STATE  
FILED AUG 06 2010  
TAX \$ 0  
BY: PC  
Yates