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JOHN J. PISECK, JR.
Executive Director

STACEY J. HOLLERAN
Office Manager

VICTORIA L. ADAMS
Administration & Grant
Coordinator

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COUNSEL

ANTHONY G. HALLAK, Esq.
Felt Evans, LLP

MINUTES

September 23, 2021

Herkimer County Industrial Development Agency Regular Board of Directors Meeting

The Herkimer County Industrial Development Agency held a regular meeting of the Board of Directors on Thursday, September 23, 2021 at 8:00 AM. The meeting was held electronically via zoom conference as well as a public meeting open for the public to attend in person. Member of the public were invited to join the meeting virtually by going to www.zoom.com or by dialing (929) 205-6099 and entering meeting ID: 816 7459 3450 and passcode: 710317. Members of the public were invited to attend the meeting in person in the Herkimer County Chamber of Commerce conference room at 420 E. German Street, Herkimer, NY 13350.

After the Pledge of Allegiance, Chairman Vincent (Jim) Bono called the meeting to order at 8:01 AM.

The following members were present in person and answered the roll call: Vincent (Jim) Bono, David Chlus, John Scarano, Catherine (Cate) Ricci, Michael Werenczak. **Quorum Present.**

Members Absent: Cory Albrecht, Ann Gaworecki

Staff Present: John Piseck, Stacey Holleran, Victoria Adams

Also Present in Person: Anthony Hallak; Herkimer County Legislators: Greg Malta, Bob Hollum

Also Present Virtually: Assemblyman Brian Miller, Bill McDonald, Michele Roberts, Herkimer County Legislator Raymond Donley

Minutes: The following minutes were offered for review: August 31, 2021 Board of Directors Meeting; September 09, 2021 Board of Directors Meeting; Clearpath Energy, LLC Public Hearing; Hale Manufacturing Public Hearing. **John Scarano moved, seconded by Cate Ricci to approve all minutes as presented. Motion carried with 5 ayes and 0 nays.**

Financial Reports: The following financial reports were offered for review and approval: August 2021 Financial Report, Balance Sheet, Check Register, RLF/Lease Balance with payment status. Mr. Piseck stated that all outstanding loans are being paid accordingly and the Agency is in good financial position. He also stated that the Agency is making progress in paying off the mortgage note payable to the county for Schuyler Business Park. **Cate Ricci moved, seconded by John Scarano to approve all financial reports as presented. Motion carried with 5 ayes and 0 nays.**

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

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

Microenterprise and Seward 2/2/2 Update: Victoria Adams gave a brief update on the status of the Microenterprise Grant. She stated that the remaining funding has been committed to two businesses. She continues to work with those businesses to obtain the necessary documents to initiate a draw request. Awarded businesses that have committed to adding employees are doing so accordingly. She continued by providing an update on the Seward 2/2/2 fund. She is working with Juliano's Farm to obtain required documents, and is expecting to close on the approved application in the coming days. She expressed concern to the board on the approved application for Image Quilt Dance Studio. The application was approved in July, and the business owner has not provided the necessary documents to proceed. Mr. Piseck stated that the Agency would be reaching out to the RLF committee for advisement on the best course of action to proceed.

Schuyler Business Park – Water Tower: Mr. Piseck discussed the need for a water tower at Schuyler Business Park. Due to the size of The Fountainhead Group project, and the possibility of expansion, a water tower is needed to cycle through water to prevent it from becoming stagnant. A water tower would benefit not only that business, but the park as a whole. The Agency will not be liable for the cost of installation, nor will the Agency own the structure succeeding the construction. It will be owned by the Mohawk Valley Water Authority. Payment for the structure will be provided by the county, to be paid back through the existing PIF (Payment Increment Financing) agreement already in place for infrastructure improvements at the park. **David Chlus moved, seconded by Cate Ricci approving the Agency to purchase a water tower for Schuyler Business Park at a cost not to exceed \$250,000. Motion carried with 5 ayes and 0 nays.**

Russell Farm – Phase II Archaeological Survey: Phase IA and IB Archaeological surveys were completed on the parcel. The archeological survey identified precontact-period findings. A phase II survey is necessary to determine whether the sites are eligible for inclusion in the National Register of Historic Places. The Agency received a proposal from Timothy Abel, the consulting archaeologist, to complete the Phase II investigations. **Cate Ricci moved, seconded by Michael Werenczak to approve the Agency to enter into a contract with Timothy Abel for the completion of a Phase II Archaeological Survey on the Russell Farm property at a cost not to exceed \$11,500. Motion carried with 5 ayes and 0 nays.**

SunEast Grassy Knoll:

Application for Financial Assistance: The Agency received an application for financial assistance from SunEast Grassy Knoll Solar, LLC. The company proposes the installation of a ground-mounted utility-scale solar energy generation system on leased property totaling approximately 195 acres. The project site is located at Burrell Road and Sabin Road in the Town of Manheim. **Michael Werenczak moved, seconded by David Chlus to approve the application for financial assistance for SunEast Grassy Knoll Solar, LLC. Motion carried with 5 ayes and 0 nays.**

Inducement Resolution: An application for financial assistance was presented and accepted by the board for SunEast Grassy Knoll, LLC.

After further review and discussion, **David Chlus made the following motion:**

RESOLUTION OF THE HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "AGENCY") TAKING OFFICIAL ACTION TOWARD APPOINTING SUNEAST GRASSY KNOLL SOLAR, LLC (the "COMPANY"), AND THE PRINCIPALS OF THE COMPANY, AS AGENT OF THE AGENCY IN

**CONNECTION WITH A SUBLEASE-LEASEBACK TRANSACTION,
AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT
AGREEMENT AND MAKING CERTAIN FINDINGS AND DETERMINATIONS
WITH RESPECT TO THE PROJECT.**

Seconded by Michael Werenczak, the motion carried with 5 ayes and 0 nays. The official resolution is attached to the original minutes.

Claims Auditor and Secondary Claims Auditor: The Agency is currently undergoing an audit by the Office of the New York State Comptroller. One of the findings thus far is to have check payments approved by a non-check signing board member prior to releasing funds to any payee. Mr. Scarano has agreed to take lead on this responsibility. Mr. Piseck also recommended Mrs. Gaworecki be secondary claims auditor in the absence of Mr. Scarano. **Cate Ricci moved, seconded by David Chlus to appoint Mr. Scarano as primary claims auditor and Mrs. Gaworecki as secondary claims auditor for the Agency. Motion carried with 5 ayes and 0 nays.**

Project East: Mr. Piseck recommended the potential project be discussed during executive session.

Union Tool – Phase I Environmental Site Assessment: The Agency received a proposal from HRP Associates for the completion of a Phase I Environmental Site Assessment on the Former Union Tool Site. **Cate Ricci moved, seconded by Michael Werenczak to approve a Phase I Environmental Site Assessment to be conducted at the Union Tool site by HRP Associates at a cost not to exceed \$3,500. Motion carried with 5 ayes and 0 nays.**

Hale Manufacturing – Amended Authorizing Resolution: The initial PILOT for Hale Manufacturing Company was standard PILOT terms. As a result of increased cost, an unsuccessful CDBG application, and limited assistance available through the county, the agency approved a revised PILOT schedule to further assist the company financially.

After further discussion, Michael Werenczak made the following motion:

**RESOLUTION AUTHORIZING THE DEVIATION FROM THE AGENCY'S
UNIFORM TAX EXEMPTION POLICY FOR FINANCIAL ASSISTANCE AND
PERMITTING THE AGENCY TO EXECUTE ALL RELEVANT CLOSING
DOCUMENTS WITH RESPECT TO THE ACQUISITION OF AN INTEREST IN
THE REAL PROPERTY SITUATE IN THE TOWN OF SCHUYLER, COUNTY OF
HERKIMER AND STATE OF NEW YORK AND THE PERSONAL PROPERTY
TO BE ACQUIRED AND LOCATED THEREAT (the "Facility") THROUGH
LEASE AGREEMENT, LEASING SAID FACILITY BACK TO THE COMPANY
THROUGH SALES AND MORTGAGE TAX EXEMPTIONS; TO ADDRESS
ENVIRONMENTAL ISSUES AND TO PROVIDE FOR INDEMNIFICATION OF
THE AGENCY ON SUCH ISSUES RELATING TO THE PROJECT THROUGH
THE EXECUTION OF AN ENVIRONMENTAL COMPLIANCE AND
INDEMNIFICATION AGREEMENT WITH THE COMPANY (the "ECIA"); TO
ENTER INTO A RECAPTURE AGREEMENT; TO ENTER INTO A PAYMENT
IN LIEU OF TAX AGREEMENT; AND MAKING CERTAIN FINDINGS AND
DETERMINATIONS WITH RESPECT TO THE PROJECT.**

Seconded by John Scarano, the motion carried with 5 ayes and 0 nays. The official resolution is attached to the original minutes.

Schuyler Business Park – Wetlands/Survey: Acreage has been allocated to wetlands at Schuyler Business Park, as required by the Army Corps of Engineers. A survey is required to map out the wetland area, and a conservation easement is also needed. **John Scarano moved, seconded by Michael Werenczak to approve the Agency to move forward with a wetlands survey and conservation easement. Motion carried with 5 ayes and 0 nays.**

Mr. Bono welcomed comments from elected officials:

Assemblyman Brian Miller: Assemblyman Miller stated that it is great to hear of positive activity in the county. He continued by stating his concern for the lack of warehouse space throughout the county. Mr. Bono replied by stating that conversations are being had. Mr. Piseck stated that the Agency has a goal of acquiring additional properties and looking to expand the footprint of manufacturing throughout the county.

Project Updates/Other Business:

The Genesis Group – Joseph R. Carucci Legacy Award: Mr. Piseck will be accepting the Joseph R. Carucci Legacy award at the Genesis Group Annual Meeting on Thursday October 14 at Hart's Hill Inn, Whitesboro. He invited board members to attend.

Eastern Mohawk Valley Water Transmission Line: The Agency received the first draw down of funds for the project.

John Scarano moved, seconded by Cate Ricci to enter into executive session at 8: 54 AM to discuss developments of a potential project. Motion carried with 5 ayes and 0 nays. All board members, Anthony Hallak, Greg Malta, Bob Hollum, John Piseck, Stacey Holleran, and Victoria Adams were invited to stay.

Project East: After discussions of a potential project, **David Chlus moved, seconded by Cate Ricci to approve the Agency to hire a public relations firm for a county-wide approach to the public's perception of the activities associated with the proposed project, at a cost not to exceed \$25,000. Motion carried with 5 ayes and 0 nays.**

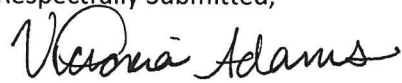
Anthony Hallak exited the meeting at 9:12 AM

Greg Malta and Bob Hollum exited the meeting at 9:36 AM.

Cate Ricci moved, seconded by John Scarano to end executive session at 10:02 AM. Motion carried with 5 ayes and 0 nays.

Being no other business, Cate Ricci moved, seconded by John Scarano to adjourn at 10:02 AM. Motion carried with 5 ayes and 0 nays.

Respectfully Submitted,

A handwritten signature in black ink that reads "Victoria Adams". The signature is written in a cursive style with a large, looped "V" at the beginning.

Victoria Adams
Administration & Grant Coordinator

INDUCEMENT RESOLUTION

At a regular meeting of the Herkimer County Industrial Development Agency held at 420 E. German Street, Herkimer, New York, on September 23, 2021 at 8:00 A.M.

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

PRESENT: Vincent J. Bono, David Chlus, Catherine Ricci, John Scarano,
Michael Werenczak

ABSENT: Cory Albrecht, Ann Gaworecki

ALSO PRESENT: John Piseck, Stacey Holleran, Anthony Hallak, Victoria Adams

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

AYE

NAY

All

None

RESOLUTION OF THE HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the “AGENCY”) TAKING OFFICIAL ACTION TOWARD APPOINTING SUNEAST GRASSY KNOLL SOLAR, LLC (the “COMPANY), AND THE PRINCIPALS OF THE COMPANY, AS AGENT OF THE AGENCY IN CONNECTION WITH A SUBLEASE-LEASEBACK TRANSACTION, AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE PROJECT.

WHEREAS, the Herkimer County Industrial Development Agency (the "Agency") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York Chapter 410 of the Laws of 1970 and Chapter 158 of the Laws of 1981 of the State (collectively, the "Act") to promote, develop, encourage and assist in the constructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, pollution control, commercial, research and recreation facilities for the purpose of promoting, attracting developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York (the to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to provide assistance in the construction and equipping of one or more "Projects" (as defined in the Act); and

WHEREAS, the Company has presented an application (the "Application") to the Agency, a copy of which was presented at this meeting and copies of which are on file at the office of the Agency, requesting that the Agency consider undertaking; (i) to provide assistance through sales tax and mortgage tax incentives for the constructing, equipping, and financing of the above described project Facility and real property tax relief in the form of a Payment in Lieu of Tax Agreement (the "Assistance"), (ii) to acquire, construct, equip, and finance the Facility or to cause the Facility to be constructed, equipped, and financed; and (iii) to lease and/or sublease (with an obligation to leaseback) or sell the Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the Facility will consist of the acquisition, construction, and equipping of a ground-mounted utility scale solar energy generation system on leased property totaling 195 acres located at near the intersection of Burrell Road and Sabin Road in the Town of Manheim with an estimated capacity of 20 MVac $\pm$ kilowatts. The Project has an estimated cost of Twenty Three Million Nine Hundred Twenty Thousand Forty Two and 00/100 Dollars (\$23,920,042.00) (the "Project Costs"); and

WHEREAS, the project proposes to generate electricity that will allow residential and commercial subscribers to benefit from renewable energy that will offset traditional power sources; and

WHEREAS, the Agency has given due consideration to the Application and to representations by the Company; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto the Department of Environmental Conservation of the State Department of Environmental Conservation of the State (collectively "SEQR"), the Agency constitutes a State Agency; and

WHEREAS, the Town of Manheim Planning Board evaluated the project and on _____, 2021 and issued a Negative Declaration (the "SEQR Determination") under SEQR with respect to the Project. A copy of Negative Declaration is attached hereto as Exhibit A; and

WHEREAS, the Agency has considered its environmental assessment form and related forms (the questionnaire submitted by the Company) the requisite criterion to determine whether the proposed action or the Project will have a significant effect on the environment; and

WHEREAS, if required by the Act, a public hearing will be duly noticed and had with respect to the Facility and the Assistance.

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

1. Based upon the application and other representations made by the Company to the Agency and the Agency's due deliberation, the Agency hereby makes the following findings and determinations:

A. The Facility constitutes a "Project" within the meaning of the Act.

B. The Assistance will induce the Company to locate the Facility in the County, thereby maintaining and increasing employment opportunities within the State of New York and otherwise furthering the proposes of the Agency as set forth in the Act.

C. Except as is permitted by law, the Facility will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Facility from one area of the State to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Facility located in the State.

2. The form and substance of the proposed agreement in substantially the draft form presented to this meeting between the Agency and the Company setting forth the undertakings of the Agency and the Company with respect to providing of the Assistance (the "Agreement") are hereby approved. The Chairman, Vice Chairman and Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Agreement in substantially the form presented to this meeting, with such changes in terms and form as the Chairman, Vice Chairman or the Executive Director shall approve. The execution thereof by the Chairman, Vice Chairman or Executive Director shall constitute conclusive evidence of such approval.

3. Subject to the conducting of a public hearing, if required, pursuant to Sections 859-a and 862 of the Act and subject to the conditions set forth in the Agreement, the Company is hereby authorized to proceed with the acquisition, construction, equipping, and financing of the Facility and to advance such funds as may be necessary to accomplish such purposes.

4. Subject to the conducting of a public hearing, if required, pursuant to Sections 859-a and 862 of the Act and subject to the conditions set forth in the Agreement, the Company in accordance with the Agreement and where applicable its tenant or tenants, are appointed the true lawful agents of the Agency (i) to acquire, construct, equip, and finance the Facility, (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for

completing the Facility, all with the same powers and the same validity as the Agency could do if acting in its own behalf.

5. This Project shall not proceed until it has conformed with all requirements of SEQR, conditions (if any) imposed by the Town of Manheim Planning Board, this Agency has adopted the Negative Declaration of the Town of Manheim or County of Herkimer as Lead Agency in the SEQR process, the Company has provided adequate proof that the Project permits are duly transferable and the leases and/or subleases are approved by the Agency, and the Company has provided sufficient proof of its ability to finance the Project.

6. Pursuant to Section 875(3) of the New York General Municipal Law, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, subleasee's or any other party authorized to make purchases or otherwise benefit from the Project, any sales and use tax exemption benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, subleasee's or any other party authorized to make purchases for the benefit of the Project if determined that: (i) the Company, its agents, consultants, subcontractors, subleasee's or any other party authorized to make purchases for the benefit of the Project, is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, subleasee's or any other party authorized to make purchases for the benefit of the Project; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company, its agents, consultants, subcontractors, subleasee's or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. As a condition precedent of receiving sales and use tax exemption benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, must (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

7. The Chairperson, Vice Chairperson, and/or Administrative Director of the Agency are hereby authorized, on behalf of the Agency, to negotiate and execute (a) the Lease Agreement whereby the Company conveys a leasehold interest in the Project to the Agency, (b) the related Leaseback Agreement leasing the Project back to the Company, (c) the Project Benefits and Recapture Agreement, and (d) the PILOT Agreement; provided (1) the rental payments under the Leaseback Agreement include payment of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project; and (ii) the terms of the PILOT Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

A copy of this resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours and notices of this negative declaration shall be filed, posted and published as shall be necessary to conform with the requirements of SEQR.

8. This Resolution shall take effect immediately.

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

I, the undersigned Assistant Secretary of the Herkimer County Industrial Development Agency, do hereby certify that I have compared the foregoing extract of the minutes of the Herkimer County Industrial Development Agency (the "Agency") held on September 23, 2021 with the original thereof of file in my office, and that the same is a true and correct copy of the original and of the whole of the original insofar as the same relates to the subject matters therein referred to.

I, FURTHER CERTIFY that (i) all members of the Agency had due notice of the meeting, (ii) the meeting was in all respects duly held, (iii) pursuant to Section 99 of the Public Officers Law (Open Meetings Law), the meeting was open to the general public, and public notice of the time and place of the meeting was duly given to the public and news media in accordance with Section 99 and (iv) there was a quorum of the members of the Agency present throughout the meeting.

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 1st day of October, 2021.

**HERKIMER COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By: Stacey Holleran
Stacey Holleran, Assistant Secretary

SECOND AMENDED AUTHORIZING RESOLUTION

At a meeting of the Herkimer County Industrial Development Agency, Herkimer County, New York (the "Agency"), held at 420 E. German Street, Herkimer, New York on the 23rd day of September, 2021 at 8:00 a.m., the following members of the Agency were:

Present: Vincent J. Bono, David Chlus, John Scarano, Michael Werenczak,
Catherine Ricci,

Absent: Ann Gaworecki, Cory Albrecht

Also Present: John Piseck, Stacey Holleran, Anthony Hallak, Victoria Adams

After the meeting had been duly called to order, the Chairman announced that the purpose of the meeting was to consider and take action on certain matters pertaining to F.E. Hale Mfg. Co. (the "Company").

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

AYE	NAY	ABSTAINED
*ALL	*NONE	*NONE

RESOLUTION AUTHORIZING THE DEVIATION FROM THE AGENCY'S UNIFORM TAX EXEMPTION POLICY FOR FINANCIAL ASSISTANCE AND PERMITTING THE AGENCY TO EXECUTE ALL RELEVANT CLOSING DOCUMENTS WITH RESPECT TO THE ACQUISITION OF AN INTEREST IN THE REAL PROPERTY SITUATE IN THE TOWN OF SCHUYLER, COUNTY OF HERKIMER AND STATE OF NEW YORK AND THE PERSONAL PROPERTY TO BE ACQUIRED AND LOCATED THEREAT (the "Facility") THROUGH LEASE AGREEMENT, LEASING SAID FACILITY BACK TO THE COMPANY THROUGH SALES AND MORTGAGE TAX EXEMPTIONS; TO ADDRESS ENVIRONMENTAL ISSUES AND TO PROVIDE FOR INDEMNIFICATION OF THE AGENCY ON SUCH ISSUES RELATING TO THE PROJECT THROUGH THE EXECUTION OF AN ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT WITH THE COMPANY (the "ECIA"); TO ENTER INTO A RECAPTURE AGREEMENT; TO ENTER INTO A PAYMENT IN LIEU OF TAX AGREEMENT; AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE PROJECT.

WHEREAS, F.E. Hale Mfg. Co., on behalf of itself and/or the principals of F.E. Hale Mfg. Co. (the "Company") has applied to the Herkimer County Industrial Development Agency (the "Agency") to enter into a transaction relating to the acquisition of an interest of land, as hereinafter defined, the construction and equipping of manufacturing facility and office space on a parcel of land located at 11206 Cosby Manor Road, Schuyler, New York 13502, Herkimer County (the "Land"), and the acquisition and installation of equipment in the Improvements, all to be used by the Company in connection with providing a complete manufacturing facility and office space in support of F.E. Hale Mfg. Co. (the Land, Improvements and Equipment) are referred to collectively as the "Facility" and the construction and equipping of the Improvements is referred to as (the "Project"); and

WHEREAS, the Company will further lease the facility for its operation from Promised Land Development, LLC pursuant to a lease agreement between the Company and Promised Land Development, LLC; and

WHEREAS, the Company will sublease the Facility to the Agency, pursuant to Article 18-A of the General Municipal Law of the State of New York, and Chapter 372 of the Laws of 1970 of the State of New York, as may be amended from time to time (collectively the "Act") and the Agency will lease the Facility back to the Company pursuant to a Leaseback Agreement (the "Leaseback Agreement"); and

WHEREAS, the Company will reconstruct, renovate and equip the Project as Agent of the Agency; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Agency is authorized under its Uniform Tax Exemption Policy to provide for financial assistance to the Project and under proper circumstances and upon notice to the affected taxing jurisdictions deviate therefrom; and

WHEREAS, representations made by the Company in its Application for Financial Assistance support the finding that the Project will promote employment opportunities and prevent economic deterioration in the area served by the Agency; and

WHEREAS, based upon recommendation made by the Company in its Application, the value of financial assistance is described as follows:

Sales and Use Tax exemptions estimated at \$57,420.00 but shall not exceed \$57,420.00 in aggregate;

Real Property Tax Abatement is estimated at \$129,528.00.

WHEREAS, prior to the closing of a lease-leaseback transaction, and the granting of any tax benefits, a public hearing (the "Hearing") was held so that all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency, or the location or nature of the Facility, can be heard; and

WHEREAS, notice of the Hearing was given prior to the closing of a lease-leaseback transaction, and the granting of any tax benefits, and such notice (together with proof of publication) was in the form annexed hereto as **Exhibit A**; and

WHEREAS, the minutes of the Hearing are or will be annexed hereto as **Exhibit B**; and

WHEREAS, the Agency has given due consideration to the operation of a retail facility and the economic conditions of the area in which the Project is situated; and

WHEREAS, the Agency has given due consideration to the application of the Company and to representations by the Company that the proposed lease-leaseback transaction is either and inducement to the Company to maintain and expand the Facility in the County or is necessary to maintain the competitive position of the Company in its industry; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the “SEQR Act” or “SEQRA”), the Agency constitutes a “State Agency”; and

WHEREAS, to aid the Agency in determining whether the Facility may have a significant effect upon the environment, the Company by virtue of its activities in renovating, reconstructing and equipping the Project shall submit, as a condition to closing, that SEQR review is not required, or in the alternative, the Environmental Assessment Form and related documents (Questionnaire) with respect to the Facility, a copy of which will be placed on file as the office of the Agency; and

WHEREAS, prior to the granting of any tax benefits, the Agency will complete its environmental review (if applicable) and make determinations for purposes of SEQRA.

Section 1. The Agency hereby finds and determines:

- (a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes of the Act and to exercise all powers granted to it under the Act; and
- (b) The Facility constitutes a “project,” such as that term is defined in the Act; and
- (c) The acquisition, construction, equipping and financing of the Facility, and the leasing of the Facility to the Company will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Herkimer County and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and
- (d) The acquisition, construction and equipping of the Facility is reasonably necessary to induce the Company to maintain and expand its business operations in the State of New York; and

- (e) Based upon representations of the Company, the Facility conforms with the local zoning laws and planning regulations of Herkimer County and all regional and local use plans for the area in which the Facility is located; and
- (f) It is desirable and in the public interest for the Agency to acquire a leasehold interest in the Facility and lease the Facility back to the Company; and
- (g) The Lease is an effective instrument whereby the Company conveys a leasehold interest to the Agency; and
- (h) The Leaseback Agreement is an effective instrument whereby the Company leases the Facility from the Agency; and
- (i) Deviation from the Agency's Uniform Tax Exemption Policy is necessary to assist the Company and an enhanced 10 year PILOT schedule is an effective means to accomplish this goal.

Section 2. In consequence of the foregoing, and subject to the receipt and approval by the Agency of pre-closing documents deemed reasonably necessary by counsel to the Agency, the Agency hereby determines to acquire a leasehold interest in the Facility from the Company and to lease the Facility back to the Company and to execute and deliver the Lease Agreement, the Leaseback Agreement and memoranda thereof, the Environmental Compliance and Indemnification Agreement, the PILOT Agreement, the Recapture Agreement and all related documents (collectively the Closing Documents).

Section 3. The form and substance of the Closing Documents (each in substantially the forms presented to the Agency and which, prior to the execution and delivery thereof, may be redated) are hereby approved.

Section 4.

- (a) The Chairman, Vice Chairman, Secretary or any member of the Agency and the Executive Director, John J. Piseck, are hereby authorized, on behalf of the Agency, to execute and deliver the Closing Documents, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, Vice Chairman, Secretary, Executive Director or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution. The execution thereof by the Chairman, Vice Chairman, Executive Director or any member of the Agency shall constitute conclusive evidence of such approval.
- (b) The Chairman, Vice Chairman, Secretary or member of the Agency and the Executive Director, John J. Piseck, are further hereby 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 5. 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 Closing Documents, and to execute and deliver all such additional certificates, instruments and documents, 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 Closing Documents binding upon the Agency.

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

I, Stacey Holleran, the undersigned Assistant Secretary of the Herkimer County Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Herkimer County Industrial Development Agency (the "Agency"), including the resolutions contained therein, held on the 23rd day of September, 2021 with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Closing Documents contained in this transcript of proceedings are each in substantially the substance presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, (ii) pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand as of this 23rd day of September, 2021.

HERKIMER COUNTY INDUSTRIAL
DEVELOPMENT AGENCY



Stacey Holleran, Assistant Secretary