

INDUCEMENT RESOLUTION

At a regular meeting of the Herkimer County Industrial Development Agency held at 420 East German Street, Herkimer, New York, on November 29, 2022 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, Cory Albrecht, Michael Werenczak,
Ann Gaworecki, Timothy Day, Alana Basloe

Absent: John Scarano

Also Present: John Piseck, Stacey Holleran, Victoria Adams, Erin Spina

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 WARRIOR SOLAR PARTNERS, 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, reconstructing, 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 “State”); 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 16.93± acres located at 3020 Southside Road, in the Town of Frankfort with an estimated capacity of 5.0 MWac ± kilowatts. The Project has an estimated cost of Eight Million Six Hundred Ninety Four Thousand Nine Hundred Forty and 00/100 Dollars (\$8,694,940.00) (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 Frankfort Planning Board evaluated the project and on October 27, 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 and 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 SEQ, conditions (if any) imposed by the Town of Frankfort, this Agency has adopted the Negative Declaration of the Town of Frankfort or County of Herkimer as Lead Agency in the SEQ 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 (i) 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 SEQ.

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 November 29, 2022 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 29th day of November, 2022.

**HERKIMER COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By: Stacey Holleran
Stacey Holleran, Assistant Secretary

Exhibit A

TOWN BOARD OF FRANKFORT

Resolution Issuing Negative Declaration for Warrior Solar Partners LLC Solar Energy Project at 3020 Southside Road, Town of Frankfort

WHEREAS, before the Town Board of the Town of Frankfort (the "Board") is a proposed project, sponsored by the EDF Renewables Distributed Solutions Inc. ("EDF"), to construct a Tier 3 5 megawatt ("MW") alternating current ("ac") solar energy facility, on a repurposed site, located at 3020 Southside Road, Frankfort, NY 13340 (Tax ID Nos.: 104.4-1-21.1 and 112.1-1-1.1)(the "Action" or "Project"); and

WHEREAS, the Board issued a Notice of Intent to act as Lead Agency for purposes of reviewing the Project under the State Environmental Quality Review Act ("SEQRA") and the Involved Agencies agreed to the Agency acting as Lead Agency; and

WHEREAS, the Board has determined that the Action is a Type I action under SEQRA, and has determined to undertake a coordinated review; and

WHEREAS, the Board has duly considered the Action, the full Environmental Assessment Form, the criteria for determining significance set forth in 6 N.Y.C.R.R. § 617.7(c), the draft Negative Declaration, and such other information deemed appropriate; and

WHEREAS, the Board has identified the relevant areas of environmental concern, has taken a hard look at these areas, and has made a reasoned elaboration of the basis for its determination;

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Frankfort that:

1. Based upon a thorough review and examination of the known facts relating to the Action and its careful review of all potentially adverse environmental impacts, and the entire record and proceedings relating to the Action, the Board finds that the Action will not have a significant adverse impact on the environment and that a draft environmental impact statement will not be prepared.
2. The attached negative declaration, incorporated herein by reference, is issued and adopted for the reasons stated in the attached negative declaration.
3. The Supervisor and/or Town of Frankfort personnel or counsel are hereby authorized and directed to distribute copies of the resolution as necessary.

4. This resolution is effective immediately.

PASSED AND ADOPTED this 27th day of October, 2021 by the Town Board of the Town of Frankfort.

NEGATIVE DECLARATION
Determination of Non-Significance

Lead Agency: Town Board of the Town of Frankfort

Date: October 27, 2021

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town Board of the Town of Frankfort (the "Board"), as Lead Agency, has reviewed the proposed project ("Action" or "Project") and determined that it will not have a significant adverse environmental impact and that a Draft Environmental Impact Statement will not be prepared.

Name of Action: Warrior Solar Partners, LLC

Location of Project Site: 3020 Southside Road, Frankfort, NY 13340, SBL #s 104.4-1-21.1 and 112.1-1-1.1

SEQRA Status: Type I

Description of Action: The Board is considering an application submitted by EDF Renewables Distributed Solutions Inc. to construct a 5 megawatt ("MW") alternating current ("AC") solar array (the "Project") on a repurposed site at the closed Mohawk Valley Landfill and will encompass approximately 27.2 acres. The Project is located in the Ferguson-Creek Mohawk River watershed. The Project will involve the installation of ground-mounted solar energy systems consisted of solar modules/panels, new electrical equipment, and accessories including electrical line, access roads, and concrete pads containing transformers. On the western capped area, the solar panels will be installed as a ballasted system to minimize ground disturbance and impacts to the landfill cover system. The solar panels will be pile driven on the eastern borrow pit area.

Reasons Supporting this Determination:

The Board has identified the relevant areas of environmental concern and has taken a hard look at each of the identified areas as required by the State Environmental Quality Review Act ("SEQRA"). The Board compared the Action with the criteria for determining significance identified in 6 NYCRR § 617.7(c)(1) and in accordance with 6 NYCRR § 617.7(c)(2) and (3). As indicated below in the discussion of each criterion specified in 6 NYCRR § 617.7(c)(1), the Action will not have a significant adverse impact on the environment. As indicated below in the

discussion of each criterion specified in 6 NYCRR § 617.7(c)(1), the action will not have a significant adverse impact on the environment.

The Board has reviewed the Environmental Assessment Forms (EAF) and the criteria contained in 6 NYCRR §617.7, as well as the applications, and the comments at the public hearing, and has determined that the Projects will not have a significant impact on the environment for the following reasons:

- A. As required by §617.7(a)(2), the Board has determined that an Environmental Impact Statement is not required because any identified adverse impacts on the environment will not be significant.
- B. As required by §617.7(b), the Board has:
 - 1. Considered the action as defined in subdivisions 617.2(b) and 617.3(g).
 - 2. Reviewed the Full EAF for the Project, the criteria identified in 617.7(c) and other supporting information to identify relevant areas of environmental concern.
 - 3. Analyzed the identified relevant areas of environmental concern to determine whether the action will have a significant adverse impact.
 - 4. Set forth herein its written Finding of No Significant Environmental Impact.
- C. The Board has compared the impacts reasonably expected to result from the proposed action to the criteria listed in 617.7(c)(1) as indicators of significant adverse impacts:

(i) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;

The Project will not result in a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels. Nor will there be a substantial increase in solid waste production or the potential for erosion, flooding, leaching, or drainage problems. Short-term air impacts from construction, from vehicles and disturbing soils, will be minimized by best practices during construction.

a. Traffic Impacts

The Project will not result in a significant adverse change in traffic levels. This Action involves short-term impacts from the construction period and decommissioning period traffic utilizing the existing road network. There is very little traffic for maintenance during operations.

b. Noise Impacts

The Project will not result in a significant adverse change in noise levels.

b. Air Quality Impacts

The Project will not result in any significant adverse air quality impacts. The only impacts from the Action will occur short-term during construction and decommissioning.

c. Wetland Impacts

The property which the Project is located on contains wetlands; however, the Project site is not situated on these wetlands. Therefore, the Project will not result in any impacts to wetlands.

d. Erosion, Flooding and Drainage Impacts

There will be no significant adverse impacts resulting from erosion, flooding, or stormwater drainage. The Project will comply with the submitted Stormwater Pollution Prevention Plan, all applicable state and federal laws and regulations, including compliance with the Clean Water Act, and the New York State Department of Environmental Conservation requirement to obtain applicable permits for stormwater discharges from construction activities.

e. Solid Waste Production

There will not be additional solid waste produced as a result of the Action.

(ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;

The Action will not result in the removal or destruction of large quantities of vegetation or fauna. The Project will be constructed on a closed landfill where the property does not contain a significant habitat area. There will be no substantial adverse impacts on any threatened or endangered species of animal or plant, or the habitat of such a species, nor other significant adverse impacts to natural resources.

(iii) the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to subdivision 617.14(g) of this Part;

There is no Critical Environmental Area within the Project area, thus there will be no significant adverse impacts.

(iv) the creation of a material conflict with a community's current plans or goals as officially approved or adopted;

There will be no material conflict with the Town's current plans or goals as officially approved or adopted.

(v) the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;

The Action will not result in the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources. The Project is located in an appropriate zoning district designated by the Town Code for solar, and will not negatively impact neighborhood character. The size and scale of the Action will not create any significant adverse impacts.

(vi) a major change in the use of either the quantity or type of energy;

There will be no negative impacts since the Project will increase the supply of renewable energy.

(vii) the creation of a hazard to human health;

There will be no such impacts.

(viii) a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;

There will be no such impacts. The Project will be located on a closed landfill and does not represent a substantial change in the use or intensity of land. After decommissioning, the land will continue to support the closed landfill.

(ix) the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;

There will be no such impacts.

(x) the creation of a material demand for other actions that would result in one of the above consequences;

There will be no such impacts.

(xi) changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or

There will be no such impacts.

(xii) two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.

There will be no such impacts. The Board specifically considered all components of the Action together to ensure that the entirety of impacts were reviewed.

For Further Information:

Contact Person: Mishele Spaman, Town Codes Enforcement Officer

Address: Town Hall
201 Third Avenue
Frankfort, NY 13340

Telephone Number: (315) 894-0922