


# Tompkins County Industrial Development Agency

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Administration provided by 

## TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY BOARD OF DIRECTORS MEETING

• Thursday, September 14, 2017 •  
4:00 – 5:30 PM  
Legislative Chambers  
Governor Daniel D. Tompkins Building  
121 E. Court Street, Ithaca NY

### AGENDA

#### 1. CALL TO ORDER

#### 2. PRIVILEGE OF THE FLOOR

#### 3. BUSINESS

##### Old Business

##### **Ulysses Solar III LLC – Final Approval**

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| Inducement Resolution               | 2             |
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##### **2016 Job Report**

##### **Mission Statement –Discussion**

#### 4. STAFF REPORT

#### 5. APPROVAL OF MEETING MINUTES – June 8, 2017 & August 10, 2017 24

#### 6. ADJOURNMENT

**Next Meeting: October 12, 2017**

***TCIDA Mission Statement:** The Tompkins County Industrial Development Agency helps companies and entrepreneurs to develop and maintain quality employment opportunities, to diversify the local economy, and to improve and strengthen the tax base and the quality of life in Tompkins County by offering economic incentives.*

**INDUCEMENT RESOLUTION:  
Ulysses Solar III LLC  
1574 Trumansburg Road, Town of Ulysses**

A regular meeting of the Tompkins County Industrial Development Agency was convened on September 14, 2017 at 4:00 p.m.

The following resolution was duly offered and seconded, to wit:

**Resolution authorizing the Tompkins County Industrial Development Agency to**

- (i) take a leasehold interest in approximately 10 acres of real property consisting of a parcel of land leased by Ulysses Solar III LLC and located at 1574 Trumansburg Road in the Town of Ulysses, Tompkins County, New York (currently designated as Town of Ulysses tax parcel number 33.-4-3.2) and improvements to be constructed thereon;**
- (ii) appoint Ulysses Solar III LLC as its agent to acquire, construct and equip thereon a 2-megawatt community solar array to be used to generate renewable energy;**
- (iii) negotiate and execute a lease agreement, leaseback agreement and related payment-in-lieu-of-tax agreement;**
- (iv) provide financial assistance to Ulysses Solar III LLC in the form of a partial real property tax abatement through the PILOT Agreement, and**
- (v) execute related documents.**

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and § 895-b of the General Municipal Law of the State of New York, as amended (hereinafter collectively called the “Act”), TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY (hereinafter called the “Agency”) was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, Ulysses Solar III LLC (hereinafter called the “Company”) desires to acquire, construct and equip upon approximately 10 acres of real property leased by the Company at 1574 Trumansburg Road in the Town of Ulysses, Tompkins County, New York (currently designated as Town of Ulysses tax parcel number 33.-4-3.2) (the “Land”) a 2-megawatt community solar array to be used to generate renewable energy (hereinafter called the “Project”); and

WHEREAS, pursuant to Article 18-A of the General Municipal Law, the Agency desires to adopt a resolution describing the Project and the financial assistance that the Agency is contemplating with respect to the Project; and

WHEREAS, it is contemplated that the Agency will (i) designate the Company as its agent for the purpose of acquiring, constructing, and equipping the Project, (ii) negotiate and enter into a lease agreement (the “Lease”), leaseback agreement (the “Leaseback Agreement”) and payment-in-lieu-of-tax agreement (the “PILOT Agreement”) with the Company, (iii) take a leasehold interest in the land and the improvements and

personal property constituting the Project (once the Leaseback Agreement and PILOT Agreement have been negotiated), and (iv) provide financial assistance to the Company in the form of a partial real property tax abatement through the PILOT Agreement; and

WHEREAS, pursuant to General Municipal Law Section 859-a, at 11:00 a.m. on September 11, 2017 at the Ulysses Town Hall, located in the Town of Ulysses at 10 Elm Street, Trumansburg, New York, the Agency held a public hearing with respect to the Project and the proposed financial assistance being contemplated by the Agency (the “Public Hearing”) whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. A copy of the minutes of said Public Hearing is attached hereto as Exhibit A; and

WHEREAS, the Town of Ulysses Planning Board (the “Planning Board”) on March 21, 2017 issued a negative declaration (the “SEQR Proceedings”) under Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, “SEQR”) with respect to the Project. A copy of the negative declaration is attached hereto as Exhibit B; and

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

Section 1. The Company has presented an application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company’s application, 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. It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and equipping the Project;
- c. The Agency has the authority to take the actions contemplated herein under the Act;
- d. The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Tompkins County and otherwise furthering the purposes of the Agency as set forth in the Act;
- e. The Project will not result in the removal of a civic, commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (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 Project located within the State, and the Agency hereby finds that, based on the Company’s application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries;

Section 2. Based upon a review of the Company's application and the SEQR Proceedings submitted to the Agency, the Agency hereby:

- a. Consents to and affirms the status of the Planning Board as Lead Agency within the meaning of, and for all purposes of complying with, SEQR;
- b. Determines that the proceedings undertaken by the Planning Board as Lead Agency under SEQR with respect to the acquisition, construction and equipping of the Facility satisfy the requirements of SEQR, and ratifies and confirms such proceedings by the Planning Board as Lead Agency;
- c. Determines that all of the provisions of SEQR that are required to be complied with as a condition precedent to the approval of the financial assistance contemplated by the Agency with respect to the Project and the participation by the Agency in undertaking the Project have been satisfied.

Section 3. Subject to the Company executing the Agency Project Agreement attached hereto as Exhibit C and the Inducement Agreement attached hereto as Exhibit D, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, construct and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting on its own behalf; provided, however, that the Agency Project Agreement shall expire on **September 30, 2019** (unless extended for good cause by the Administrative Director of the Agency) if the Leaseback Agreement and PILOT Agreement contemplated have not been executed and delivered.

Section 4. The standard Agency Administrative Fee pursuant to the Mission, Policies and Procedures of the Agency is one percent (1%) of the expenses that are positively impacted by the Agency incentives. **The fee for this Project will be one-half of one percent (0.5%).**

Section 5. 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, and (c) 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.

Section 6. The Chairperson, Vice Chairperson and/or Administrative Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any and all documents, in a form

acceptable to the Agency’s counsel, reasonably contemplated by these resolutions to accomplish building construction, acquisition and installation of equipment and other personal property, and related transactional costs (hereinafter, with the Leaseback Agreement and PILOT Agreement, collectively called the “Agency Documents”); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chairperson, Vice Chairperson, and/or Administrative Director of the Agency shall approve, the execution thereof by the Chairperson, Vice Chairperson, and/or Administrative Director of the Agency to constitute conclusive evidence of such approval; provided in all events that recourse against the Agency is limited to the Agency’s interest in the Project.

Section 7. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 8. These resolutions shall take effect immediately.

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

| <u>Member names</u>                | <u>Yea</u> | <u>Nea</u> | <u>Abstain</u> | <u>Absent</u> |
|------------------------------------|------------|------------|----------------|---------------|
| James P. Dennis, Chairperson       | [ ]        | [ ]        | [ ]            | [ ]           |
| Martha Robertson, Vice Chairperson | [ ]        | [ ]        | [ ]            | [ ]           |
| Svante L. Myrick, Secretary        | [ ]        | [ ]        | [ ]            | [ ]           |
| Will Burbank                       | [ ]        | [ ]        | [ ]            | [ ]           |
| Grace Chiang                       | [ ]        | [ ]        | [ ]            | [ ]           |
| Jennifer Tavares                   | [ ]        | [ ]        | [ ]            | [ ]           |
| Richard T. John                    | [ ]        | [ ]        | [ ]            | [ ]           |

The resolutions were thereupon duly adopted.

I, Svante L. Myrick, as Secretary of the Tompkins County Industrial Development Agency, hereby certify that the above is a true and correct copy of a duly authorized resolution of the Tompkins County Industrial Development Agency.

Dated: September \_\_\_\_\_, 2017

\_\_\_\_\_  
Svante L. Myrick, Secretary of the  
Tompkins County Industrial Development Agency

**EXHIBIT A**  
**Minutes of Public Hearing**

**TOWN OF ULYSSES  
PLANNING BOARD  
MEETING MINUTES  
Tuesday, March 07, 2017**

**Approved: March 21, 2017**

**Present:** Chair David Blake, and board members David Tyler, John Wertis, and Sara Worden; Environmental Planner Darby Kiley; Town Liaison Richard Goldman.

Rebecca Schneider and Benjamin LeWalter were absent.

**Public in Attendance:** Jon McNamara and Kate Millar of Renovus Energy, Vivien Rose, Lucy Garrison, Joanne Siefried, and David Wren.

**Call to Order:** 7:00 p.m.

**Agenda Review; Minutes Review (2/21/2017)**

Mr. Tyler MADE the MOTION to accept the amended February 21, 2017 meeting minutes, and Mr. Wertis SECONDED the MOTION. The motion was carried, 4-0.

**Privilege of the Floor:** No one addressed the Planning Board at this time.

**Public Hearing: Consideration of SEQR and Site Plan** Approval for a 2 MW photovoltaic system at 1574 Trumansburg Rd, Tax Parcel Number 33.-4-3.2; A1-Agricultural District. The proposed 2 MW solar project will cover approximately 10 acres adjacent to Trumansburg Rd. The panels will be a maximum height of 10 feet, surrounded by a six (6) ft fence, and 102 +/- white spruce trees will be planted parallel to Trumansburg Rd. Gates Acres, LLC, Owner; Power REIT, power purchaser; Renovus Energy, Inc., Agent.

Mr. Blake MADE the MOTION to open the public hearing, and Mr. Wertis SECONDED the MOTION. The motion was unanimously carried.

Notice of the public hearing was published in the Ithaca Journal, Ms. Kiley said.

Mr. McNamara provided a brief recap of the project: the proposal is for a Town of Ulysses Community Solar Farm, offering a pay-as-you-go model for solar customers, particularly low- and mid-income families who may not have had access to renewable energy options. Mr. Goldman asked how Renovus determines if subscribers are low or middle income. Mr. McNamara said Renovus would partner with Cornell Cooperative Extension, who will target applicants based on income data. Town of Ulysses residents will have first access to the project. To promote the inclusive aspects of the project, Renovus intends on holding an open house in the Town Hall.

Continuing with the presentation, Mr. McNamara said the project's panels will face away from Route 96. Between the panels' orientation and a screening buffer of white spruces, there is no glare consideration, he said, adding that the planting plan addresses any possible glare issue for residents across the street. Renovus is also partnering with Scott Land Yard, who will use sheep to maintain the grounds. The sheep pasture gives the project an ag component. Renovus will not look for an ag exemption for property taxes.

Ms. Siefried, of Iradell Road, owns eight acres behind the Renovus property. She is concerned about her property value. Having wanted to live in a rural area, she moved to the Town about three and a half years ago. She can see the Renovus building from her residence, and she said the company's lights shine into her bedroom at night. She thought the area was zoned for agriculture. How is Renovus able to propose a solar farm? she asked. In response, Ms. Kiley said a solar farm is allowed on all Town parcels except for in the Lakeshore, Marina, and Parks/Recreation Districts. Ms. Kiley and Ms. Siefried reviewed property maps in the vicinity of the Renovus parcel.

If Ms. Siefried's residence is located above the Renovus warehouse, she will be able to see the panels, Mr. McNamara said. Renovus is flexible and does not want Ms. Siefried to have any bad feelings regarding the project. He proposed having a Renovus representative visit her property to discuss options for limiting views of the future solar farm.

Ms. Rose felt the proposal does not pass the face test – a solar farm is not agriculture. The most important places where she sees the Town's rural character is along its main thoroughfares, including the ag land where the solar farm is to be sited. Perry City Road, near Van Dorn Road, and across from Stover Mills on Route 96 are two other such areas. The use of land for crops and/or livestock constitutes a farm, whereas the proposal is for an electric-generating installation. Using sheep for grounds maintenance – while a good idea – does not constitute as agriculture. If the Town approves the site plan, Ms. Rose hopes Planning Board members will take the time to examine the State's soils of importance. Lastly, she said she is concerned about the use of white spruces because the species may not support bird wildlife. She spent 15 hours reviewing Renovus's proposal.

Asked if the property is to be taxed as agriculture or industry, Mr. McNamara said the parcel will be taxed based on the property with the addition of the array. In his experience, Renovus could go to court to receive the ag exemption on property tax, but instead the company will pay property taxes or a Payment In Lieu of Taxes with the Town, an annual payment that typically amounts to 90 to 95 percent of what the property tax value would be. Would the property be taxed as agriculture or another use? Mr. Wertis asked. For another use, Mr. McNamara said.

Ms. Siefried asked how the project would affect her property values. Mr. Blake said that question is more for the County's Assessment office and not for the Planning Board. Mr. McNamara noted the property was once a large chicken farm and reasoned that the property is probably worth a lot more under Renovus. He said he rejects the idea that it would lower Ms. Siefried's property value.



Ms. Garrison, of nearby Stick and Stone Farm, said she is really excited about the solar array's location in the neighborhood. In her view, a solar array is far nicer to look at than a power plant. Her only objection was the amount of proposed screening along Route 96. She likes the idea of solar panels being viewable and shown off to passersby.

Asked about the on-site barn, Mr. McNamara said the large hay-storage barn will be a wintering home for the sheep. The company has also been approached by a local farmer looking to use the barn for freezer space. It was noted that the corral, located near the barn, is mostly sand and is not suitable for crops.

Ms. Kiley explained permitted uses that do not require approval. Residences are a primary use in the agricultural zone, while other uses, like solar, airstrips, and churches are allowed through Site Plan Review.

Responding to Ms. Siefried's question about ownership, Mr. McNamara clarified that Renovus will not own the property on which the solar array is to be installed. A partnering company, PowerREIT, will own the property. Asked if Renovus plans on enlarging the proposed site, he said no.

When it comes to signing up community members for solar power, will Renovus ask the neighbors first? Ms. Rose asked. Mr. McNamara said yes, adding that Renovus wants to see the benefits of solar stay as local as possible.

Mr. Blake MADE the MOTION to close the public hearing, and Mr. Wertis SECONDED the MOTION. The motion was unanimously carried.

The public hearing closed at 7:55 p.m.

### **SEQR Resolution**

Planning Board members and Ms. Kiley briefly discussion various items within the SEQR document. Ms. Kiley noted that the Planning Board had previously discussed Part I during its January meeting.

Mr. Tyler MADE the MOTION to approve the resolution for SEQR Determination, and Mr. Wertis SECONDED the MOTION as follows:

#### **WHEREAS:**

1. This is consideration of Site Plan Approval for an approximately 2 MW photovoltaic system at 1574 Trumansburg Road, Tax Parcel Number 33.-4-3.2; A1-Agricultural District. The proposed 2 MW solar project will cover approximately 10 acres adjacent to Trumansburg Rd. The panels will be a maximum height of 10 feet, surrounded by a six (6) ft fence, and 102 +/- white spruce trees will be planted parallel to Trumansburg Rd. Gates Acres, LLC, Owner; Power REIT, power purchaser; Renovus Energy, Inc., Agent; and

2. This is a Type I Action for which the Town of Ulysses Planning Board is acting as lead agency in the coordinated environmental review with respect to site plan approval. Involved and interested agencies were contacted on January 18, 2017, and no agency contested the Planning Board as lead agency; and

3. The Planning Board, on January 17, 2017, reviewed, revised and accepted as adequate the Full Environmental Assessment Form Part 1, submitted by the applicant, and on March 7, 2017, the Planning Board reviewed, revised and accepted as adequate the Full Environmental Assessment Form Parts 2 and 3 prepared by Town staff;

4. The Town Zoning Officer has recommended a negative determination of environmental significance with respect to the proposed Site Plan Approval;

**NOW THEREFORE BE IT RESOLVED:**

That the Town of Ulysses Planning Board hereby makes a negative determination of environmental significance for the reasons set forth in the Environmental Assessment Form Parts 2 and 3 referenced above, in accordance with the New York State Environmental Quality Review Act for the above referenced action as proposed, and, therefore, an Environmental Impact Statement will not be required.

The vote was as follows:

|            |     |
|------------|-----|
| Mr. Blake  | AYE |
| Mr. Tyler  | AYE |
| Mr. Wertis | AYE |
| Ms. Worden | AYE |

**Result:** Resolution approved

**Resolution for Site Plan Approval**

Mr. Tyler asked if it would be beneficial for Town Counsel to review the concerns put forth from Ms. Rose before entertaining a vote. He summarized the concerns: to maintain rural character; the question of an ag assessment for this property, and native screening to support bird populations. Ms. Millar noted Renovus's planting plan comes recommended by an arborist, and the spruce trees are native.

Addressing each point, Ms. Kiley said the solar array is an allowed use. Does the project change the character of the area? Yes, she said, and those concerns are addressed in the SEQR. As for ag assessments, it is not an issue that the Planning Board can address. On the subject of bird populations and the spruce tree buffer, Ms. Kiley said she is more concerned about road hazards. Lastly, the Planning Board has already discussed prime soils. Ms. Kiley is unclear as to what Town Counsel could answer that has not already been addressed.

## AGENCY PROJECT AGREEMENT

THIS AGREEMENT is made as of the \_\_\_\_ day of \_\_\_\_\_, 2017, by and between the **Tompkins County Industrial Development Agency** (“the Agency”), a public benefit corporation of the State of New York, having its offices at 401 East State Street, Suite 402B, Ithaca, New York 14850 and **Ulysses Solar III LLC** (“The Company”), a limited liability company duly formed and validly existing pursuant to the laws of the State of New York, with a business address of 1520 Trumansburg Road, Ithaca, New York 14850.

### WITNESSETH:

WHEREAS, the Agency was created by Section 895 of the General Municipal Law of the State of New York pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York (collectively, the “Act”) as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company desires to acquire, construct and equip upon approximately 10 acres of real property currently leased by the Company at 1574 Trumansburg Road in the Town of Ulysses, Tompkins County, New York (currently designated as Town of Ulysses tax parcel number 33.-4-3.2) (the “Land”) a new 2-megawatt community solar array to be used to generate renewable energy (hereinafter called the “Project”); and

WHEREAS, by Resolution dated September 14, 2017 (the “Resolution”), the Agency authorized the Company to act as its agent for the purposes of acquiring, constructing and equipping the Project as set forth above, subject to the Company entering into this Agency Project Agreement; and

WHEREAS, the Agency approved the following financial assistance to the Company, as set forth in the Resolution: a partial real property tax abatement through the PILOT Agreement; and

WHEREAS, the Agency purpose to be achieved by providing the financial assistance to the Company is as follows, as set forth in the Resolution: to induce the Company to develop the Project, thereby increasing employment opportunities in Tompkins County and otherwise furthering the purposes of the Agency as set forth in the Act;

NOW, THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. Scope of Agency. The Company hereby agrees to limit its activities as agent for the Agency under the authority of the Resolution to acts reasonably related to the acquisition, construction and equipping of the Project. The rights of the Company to act as agent of the Agency shall expire on **September 30, 2019**, unless extended as contemplated by the Resolution.
2. The parties are contemplating that the Agency and the Company will enter into a lease agreement from the Company to the Agency (the “Lease Agreement”), a leaseback agreement from the Agency to the Company (the “Leaseback Agreement”) and payment-in-lieu-of-tax agreement (the “PILOT Agreement”) with the Company. The Company agrees not to take title to any property as agent for the Agency until the Leaseback Agreement and PILOT Agreement have been executed and delivered.

3. Representations and Covenants of The Company. The Company makes the following representations and covenants in order to induce the Agency to proceed with the Project:
- a. The Company is a limited liability company duly formed and validly existing under the laws of the State of New York, has the authority to enter into this Agreement, and has duly authorized the execution and delivery of this Agreement.
  - b. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.
  - c. The Project and the operation thereof will conform with all applicable zoning, planning, building and environmental laws and regulations of governmental authorities having jurisdiction over the Project, and the Company shall defend, indemnify and hold the Agency harmless from any liability or expenses resulting from any failure by the Company to comply with the provisions of this subsection.
  - d. There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Company, threatened against or affecting the Company, to which the Company is a party, and in which an adverse result would in any way diminish or adversely impact on the Company's ability to fulfill its obligations under this Agreement.
  - e. The Company covenants that the Project will comply in all respects with all environmental laws and regulations, and, except in compliance with environmental laws and regulations: (i) that no pollutants, contaminants, solid wastes, or toxic or hazardous substances will be stored, treated, generated, disposed of, or allowed to exist at the Project except in compliance with all material applicable laws; (ii) that the Company will take all reasonable and prudent steps to prevent an unlawful release of hazardous substances at the Project or onto any other property, (iii) that no asbestos will be incorporated into or disposed of at the Project; (iv) that no underground storage tanks will be located at the Project, and (v) that no investigation, order, agreement, notice, demand or settlement with respect to any of the above is threatened, anticipated, or in existence. The Company, upon receiving any information or notice contrary to the representations contained in this section, shall immediately notify the Agency in writing with full details regarding the same. The Company hereby releases the Agency from liability with respect to, and agrees to defend, indemnify, and hold harmless the Agency, its executive director, directors, members, officers, employees, agents, representatives, successors, and assigns from and against any and all claims, demands, damages, costs, orders, liabilities, penalties, and expenses (including reasonable attorney's fees) related in any way to any violation of the covenants or failure to be accurate of the representations contained in this section. In the event the Agency in its reasonable discretion deems it necessary to perform due diligence with respect to any of the above, or to have an environmental audit performed with respect to the Project, the Company agrees to pay the expenses of same to the Agency

upon demand, and agree that upon failure to do so, its obligation for such expenses shall be deemed to be additional rent.

- f. The Agency encourages the Company to use an open bidding process for construction contracts; to give opportunities for employment in the construction of the Project to persons residing in Tompkins County, New York; and to award contracts for work in connection with the Project to eligible business concerns which are located in, or owned in substantial part by persons residing in, Tompkins County, New York.
  - g. The Company commits to the following investment amount: **\$3,568,473.00**.
  - h. The Company states that the current number of jobs it provides is **0** and project that the Project will result in the creation of the following number of jobs: **0**.
  - i. The Company makes the following commitment regarding the use of local labor: **it will use 100% local labor and will comply with the Agency's Local Labor Utilization Policy**.
  - j. *intentionally omitted - no jobs retained/created*
  - k. *intentionally omitted - no sales/use tax exemption*
  - l. *intentionally omitted - no sales/use tax exemption*
  - m. *intentionally omitted - no mortgage recording tax abatement*
4. Payments in Lieu of Taxes ("PILOT" payments): The Company will make PILOT payments as set forth in the PILOT Agreement to be executed by the parties. The estimated dates when PILOT payments are to be made and the estimated amounts to be paid to each affected taxing jurisdiction, or a formula by which the amounts will be calculated, are as follows: **see Schedule A attached hereto**.
5. Suspension or discontinuance of financial assistance; return of all or part of financial assistance: The Company shall be subject to discontinuance of financial assistance and the return of all or part of the financial assistance provided by the Agency as set forth in the Agency Recapture Policy.
6. Hold Harmless Provision. The Company hereby releases the Agency from, agrees that the Agency shall not be liable for, and agrees to indemnify, defend and hold the Agency and its executive director, directors, officers, members, employees, agents (except the Company), representatives, successors and assigns harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Project or arising by reason of or in connection with the occupation or the use thereof or the presence on, in or about the Project or breach by the Company of this Agreement or (ii) liability arising from or expense incurred by the Agency's financing, rehabilitating, renovation, equipping, owning and leasing of the Project, including without limitation the generality of the foregoing, all causes of action and reasonable attorney's fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or any of its respective members, directors, officers, agents or employees and irrespective of the breach of a statutory obligation or the

application of any rule of comparative or apportioned liability, except that such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the Agency or any other person or entity to be indemnified.

7. Insurance Required. Effective as of the date hereof and until the Agency consents in writing to a termination, the Company shall maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:
  - a. Insurance against loss or damage by fire, lightning and other casualties, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the Project, exclusive of excavations and foundations, as determined by a recognized appraiser or insurer selected by the Company or (ii) as an alternative to the above requirements (including the requirements of periodic appraisal), the Company may insure the Project under a blanket insurance policy or policies covering not only the Project but other properties as well.
  - b. Worker's Compensation insurance, disability benefits insurance, and each other form of insurance which the Agency or the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Project.
  - c. Insurance against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the property of others caused by any accident or occurrence on account of personal injury, including death resulting therefrom, and \$1,000,000 per accident or occurrence on account of damage to the property of others, excluding liability imposed upon the Company by any applicable worker's compensation law; and a blanket excess liability policy in the amount not less than \$2,000,000, protecting the Company against any loss or liability or damage for personal injury or property damage.
8. Additional Provisions Regarding Insurance.
  - a. All insurance required by Section 4(a) hereof shall name the Agency as a named insured and all other insurance required by Section 4 shall name the Agency as an additional insured. All insurance shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company and authorized to write such insurance in the State of New York. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged. All policies evidencing such insurance shall provide for (i) payment of the losses of the Company and the Agency as their respective interests may appear, and (ii) at least thirty (30) days' prior written notice of the cancellation thereof to the Company and the Agency.
  - b. All such policies of insurance, or a certificate or certificates of the insurers that such insurance is in force and effect, shall be deposited with the Agency prior to the commencement of the Project. Prior to expiration of any such policy, the Company shall furnish the Agency

evidence that the policy has been renewed or replaced or is no longer required by this Agreement.

9. Errors and Omissions; Compliance. In consideration for the assistance provided to the Company by the Agency, the Company agrees, if requested by Agency, to fully cooperate and execute and/or re-execute any document that should have been signed at or before the closing of the transaction described in this Agreement, or a corrected or modified version of any such documents, where the document was inadvertently not executed at or before the closing, or the version executed at or before the closing contained any typographical, clerical or mathematical error, or erroneously contained or omitted any provision that does not conform with the statutory authority and established policies of the Agency.
10. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but which together shall constitute a single instrument.
11. All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

To the Agency:           Tompkins County Industrial Development Agency  
401 East State Street, Suite 402B  
Ithaca, New York 14850

With a copy to:        Mariette Geldenhuys, Attorney and Mediator  
401 East State Street, Suite 306  
Ithaca, New York 14850

To the Company:        Ulysses Solar III LLC  
1520 Trumansburg Road  
Ithaca, New York 14850

With a copy to:        Harris Beach, PLLC  
119 East Seneca Street  
Ithaca, New York 14850

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this section.

12. This Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein, and the parties hereby agree to submit to the personal jurisdiction of the federal or state courts located in Tompkins County, New York.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Tompkins County Industrial Development Agency

Ulysses Solar III LLC

By: \_\_\_\_\_  
Name: Heather D. McDaniel  
Title: Administrative Director

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CERTIFICATION

\_\_\_\_\_[Name], the \_\_\_\_\_[Title] of ULYSSES SOLAR III LLC hereby certifies under penalty of perjury that the Company is in substantial compliance with all local, state, and federal tax, worker protection, and environmental laws, rules, and regulations.

Ulysses Solar III LLC

Date: \_\_\_\_\_, 2017

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**SCHEDULE A**

**Payment-in-Lieu-of-Tax (“PILOT”) Agreement abatement schedule**

*The property tax abatement schedule deviates from the IDA’s standard abatement schedule. The term of the PILOT Agreement is twenty years, with a payment of \$4,900 per megawatt (AC) in the first year plus a 2% increase each year thereafter.*

The following PILOT payments shall be made in accordance with the terms of the PILOT Agreement, with the first year of such PILOT Agreement relating to the 2018-2019 School tax year and the 2019 Town and County tax year (*assumes PILOT execution after March 1, 2017 but prior to March 1, 2018*):

| <u>YEAR OF EXEMPTION</u>              | <u>PAYMENT MADE</u>           |
|---------------------------------------|-------------------------------|
| 1 2018-19 School; 2019 Town & County  | \$ 9,800                      |
| 2 2019-20 School; 2020 Town & County  | \$ 9,996                      |
| 3 2020-21 School; 2021 Town & County  | \$10,196                      |
| 4 2021-22 School; 2022 Town & County  | \$10,400                      |
| 5 2022-23 School; 2023 Town & County  | \$10,608                      |
| 6 2023-24 School; 2024 Town & County  | \$10,820                      |
| 7 2024-25 School; 2025 Town & County  | \$11,036                      |
| 8 2025-26 School; 2026 Town & County  | \$11,257                      |
| 9 2026-27 School; 2027 Town & County  | \$11,482                      |
| 10 2027-28 School; 2028 Town & County | \$11,712                      |
| 11 2028-29 School; 2029 Town & County | \$11,946                      |
| 12 2029-30 School; 2030 Town & County | \$12,185                      |
| 13 2030-31 School; 2031 Town & County | \$12,429                      |
| 14 2031-32 School; 2032 Town & County | \$12,677                      |
| 15 2032-33 School; 2033 Town & County | \$12,931                      |
| 16 2033-34 School; 2034 Town & County | \$13,190                      |
| 17 2034-35 School; 2035 Town & County | \$13,453                      |
| 18 2035-36 School; 2036 Town & County | \$13,722                      |
| 19 2036-37 School; 2037 Town & County | \$13,997                      |
| 20 2037-38 School; 2038 Town & County | \$14,277                      |
| 21 Thereafter                         | no abatement, full taxes paid |

## INDUCEMENT AGREEMENT

This INDUCEMENT AGREEMENT (the “Agreement”), dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 2017, is made between the TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the “Agency”), a public benefit corporation of the State of New York, having its offices at 401 East State Street, Suite 402B, Ithaca, New York 14850, and ULYSSES SOLAR III LLC (the “Company”), a limited liability company duly formed and existing pursuant to the laws of the State of New York, having a business address of 1520 Trumansburg Road, Ithaca, New York 14850.

**Article 1. Preliminary Statement.** Among the matters of mutual inducement which have resulted in the execution of this Agreement are the following:

1.01. The Agency is authorized and empowered by the provisions of Article 18-A of the General Municipal Law of the State of New York as amended, and Chapter 535 of the Laws of 1971 of the State of New York (collectively, the “Act”) to provide financial assistance to “Projects” (as defined in the Act), to acquire facilities or properties, and to lease same to The Company upon such terms and conditions as the Agency may deem advisable.

1.02. The purposes of the Act are to promote industry and develop trade by inducing manufacturing, industrial, warehousing, research, recreation and commercial enterprises to locate or remain in the State. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes, including the power to provide financial assistance, therein defined.

1.03. The Company has requested that the Agency provide financial assistance for a certain project (the “Project”), consisting of the acquisition and construction (the “Construction”) of a 2-megawatt community solar array to be used to generate renewable energy (the “Facility”) upon approximately 10 acres of land currently leased by the Company at 1574 Trumansburg Road in the Town of Ulysses, County of Tompkins and State of New York, currently designated as tax parcel number 33.-4-3.2 (the “Land”), and the installation of certain equipment to be installed thereon (the “Equipment”) (the Land, the Facility, the Construction, and the Equipment are hereinafter collectively referred to as the “Project Facility”).

1.04. The Agency has determined that the providing of the Project Facility by the Agency and the leasing thereof by the Agency to the Company will not result in the removal of an industrial or manufacturing plant, facility or other commercial activity of the Company from one area of the State to another area of the State nor result in the abandonment of one or more commercial or manufacturing plants or facilities of the Company located within the State; and the Agency has found that, based on the Company’s application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries.

1.05. The Agency has determined that the acquisition, construction and equipping of the Project Facility, as described in the application to the Agency (the “Application”), will promote and further the purposes of the Act.

1.06. On September 14, 2017, the Agency adopted a Resolution agreeing to undertake to assist the Company and to effectuate the purposes of the Act and, subject to the happening of all acts, conditions and things required precedent to such assistance.

1.07. In the Resolution, the Agency appointed the Company as its agent for the purposes of acquiring, constructing and equipping the Project Facility, entering into contracts and doing all things requisite and proper for completing the Project Facility.

**Article 2. Undertakings on the Part of the Agency.** Based upon the statements, representations and undertakings of the Company regarding the Project Facility and subject to the conditions set forth herein, the Agency agrees as follows:

2.01. Upon satisfactory completion of the conditions precedent set forth herein and in the Resolution and the satisfactory completion of such additional acts and reviews as the Agency may deem appropriate, the Agency will adopt, or cause to be adopted, such proceedings and authorize the execution of such documents as may be necessary or advisable for (i) the acquisition, construction and equipping of the Project Facility, and (ii) the subleasing or sale of the Project Facility to the Company, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company.

2.02. The Agency will enter into an agreement to lease the Project Facility to the Company (the "Leaseback Agreement"). The Company shall be entitled to terminate the Leaseback Agreement pursuant to the terms as shall be prescribed in the Leaseback Agreement subject to conditions, if any, agreed upon by the Agency and the Company. The Leaseback Agreement shall contain all provisions required by law and such other provisions as shall be mutually acceptable to the Agency and the Company and, to the extent it may be applicable, the mortgage holder.

2.03. The Agency will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

**Article 3. Undertakings on the Part of the Company.** Based upon the statements, representations and undertakings of the Agency herein and in the Resolution and subject to the conditions set forth herein and in the Resolution, the Company agrees as follows:

3.01. The Company hereby accepts the appointment made by the Agency in the Resolution to be the true and lawful agent of the Agency to (i) acquire, construct and equip the Project Facility and (ii) make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent of the Agency, and in general to do all things which may be requisite or proper for completing the Project Facility, all with the same powers and the same validity as the Agency could do if acting on its own behalf.

3.02. The Company will, to the extent deemed by it to be necessary or desirable, enter into a contract or contracts for the acquisition, construction and equipping of the Project Facility (including any necessary contracts for the leasing of real property necessary or useful in said Project Facility), and, on the terms and conditions set forth in a certain lease agreement between the Company and the Agency (the "Lease Agreement") and the Leaseback Agreement, the Company will lease the Project Facility to the Agency.

3.03. Contemporaneously with the lease of the Project Facility to the Agency, the Company will enter into the Leaseback Agreement with the Agency containing, among other things, the terms and conditions described in Section 2.02 hereof, and such other financing agreements, indentures, guaranties, and related agreements as shall be necessary or appropriate, so that the Company will be obligated to pay to or for the account of the Agency sums sufficient to make any and all payments due under such other financing agreements, indentures, guaranties, and related agreements.

3.04. (a) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove (or bond the same if acceptable to the Agency and its counsel), any mechanics' or other liens against the Project Facility for labor or materials furnished in connection with the acquisition, construction and equipping of the Project Facility. The Company shall forever defend, indemnify and hold the Agency, its members, officers, employees and agents, and anyone for whose acts or omissions the Agency or any of them may be liable, harmless from and against any costs, losses, expenses, claims, damages and liabilities of whatever kind or nature arising, directly or indirectly, out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the acquisition, construction and equipping of the Project Facility or arising out of any contract or other arrangement therefor (and including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing), whether such claims or liabilities arise as a result of the Company acting as agent for the Agency pursuant to this Agreement or otherwise. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or any of its respective members, directors, officers, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability, except that such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the Agency or any other person or entity to be indemnified, or actions of the persons to be indemnified that are outside of the scope of their duties on behalf of the Agency.

(b) The Company shall forever defend, indemnify and hold harmless the Agency, its members, officers, employees and agents, and anyone for whose acts or omissions the Agency or any of them may be liable, from and against all claims, causes of action, liabilities and expenses howsoever arising for loss or damage to property or any injury to or death of any person (including, without limitation, death of or injury to any employee of the Company) that may occur subsequent to the date hereof by any cause whatsoever in relation to the Project Facility, including the failure to comply with the provisions of Article 3.04 hereof, or arising, directly or indirectly, out of the ownership, construction, acquisition, operation, maintenance, repair or financing of the Project Facility, and including, without limitation, any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

(c) The defense and indemnities provided for in this Article 3 shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them together the Agency's "affiliates", or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

(d) The Company shall provide and carry worker's compensation and disability insurance as required by the Leaseback Agreement.

3.05. The Company agrees that, as agent for the Agency or otherwise, it will comply with all the requirements of all federal, state and local laws, rules and regulations of whatsoever kind and howsoever denominated applicable to the Agency and/or the Company with respect to the Project Facility, the acquisition, construction and equipping thereof, and the operation and maintenance of the Project Facility. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full; and upon the request of either party, this Agreement shall be amended to specifically set forth any such provision or provisions.

3.06. The Company agrees that, as agent for the Agency or otherwise, to the extent that such provisions of law are in fact applicable (without creating an obligation by contract beyond that which is created by statute), it will comply with the requirements of Section 220 of the Labor Law of the State of New York, as amended.

3.07. *intentionally omitted - no sales/use tax exemption*

3.08. The Company will take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.09. The Company agrees to cooperate with the Agency to (1) ensure compliance with section 858-b of the General Municipal Law, and (2) prepare reports required to be prepared by the Agency pursuant to section 859 of the General Municipal Law.

3.10. If it should be determined that any State or local sales or compensatory use taxes are payable with respect to the acquisition, purchase or rental of machinery or equipment, materials or supplies in connection with the Project Facility, or are in any manner otherwise payable directly or indirectly in connection with the Project Facility, the Company shall pay the same and defend and indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

#### **Article 4. General Provisions.**

4.01. This Agreement shall take effect as of the date of execution hereof by the Agency and the Company and shall remain in effect until the Lease Agreement and Leaseback Agreement becomes effective. It is the intent of the Agency and the Company that this Agreement be superseded in its entirety by the Lease Agreement and Leaseback Agreement, except for the indemnities contained herein, which shall survive.

4.02. It is understood and agreed by the Agency and the Company that the execution of the Leaseback Agreement and related documents are subject to (i) obtaining all necessary governmental approvals, (ii) approval of the Company, (iii) approval by the members of the Agency, (iv) determination of the environmental impact of the Project Facility by the Agency and compliance with the State Environmental Quality Review Act, (v) agreement between the Agency, the Company, and any mortgagee or other financial institution or agency involved with the financing of the construction of the building of the Project Facility of mutually acceptable terms and conditions for the Leaseback Agreement and other documentation required in this transaction, (vi) the condition that there is no change in New York State Law which prohibits or limits the Agency from fulfilling its obligations and commitment as herein set forth, and (vii) payment by the Company of the Agency's fee and expenses.

4.03. The Company agrees that it will reimburse the Agency for all reasonable and necessary direct out-of-pocket expenses which the Agency may incur as a consequence of the execution of this Agreement or performing its obligations hereunder.

4.04. The Company agrees to execute with the Agency a payment-in-lieu-of tax agreement in accordance with the request of the Company submitted to the Agency and agreed to by the Agency in the Resolution.

4.05. If for any reason the Leaseback Agreement is not executed and delivered on or before twelve (12) months from the date hereof, the provisions of this Agreement (other than the provisions of Articles 3.04, 3.05, 3.06, 3.07 and 3.09 above, which shall survive) shall, unless extended by agreement of the Agency and the Company, terminate and be of no further force or effect, and following such termination neither party shall have any rights against the other party except:

(a) The Company shall pay the Agency for all expenses which were authorized by the Company and incurred by the Agency in connection with the acquisition, construction and equipping of the Project Facility;

(b) The Company shall assume and be responsible for any contracts for construction or purchase of the equipment entered into by the Agency at the request of or as agent of the Company in connection with the Project Facility; and

(c) The Company will pay the direct out-of-pocket expenses of members of the Agency and counsel for the Agency incurred in connection with the Project Facility and will pay the reasonable fees of counsel for the Agency for legal services relating to the Project Facility and the proposed construction thereof.

4.06. The Company agrees to be bound by the terms of the Tompkins County Industrial Development Agency Incentive Recapture Policy incorporated herein by reference.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

TOMPKINS COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

ULYSSES SOLAR III LLC

By: \_\_\_\_\_  
Heather D. McDaniel  
Administrative Director

By: \_\_\_\_\_  
Name:  
Title:

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

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared HEATHER D. McDANIEL, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person on behalf of whom the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

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

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that s/he executed the same in her/his capacity, and that by her/his signature on the instrument, the individual, or the person on behalf of whom the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**Tompkins County Industrial Development Agency**  
**Board of Directors Meeting DRAFT Minutes**  
**June 8, 2017**  
**4:00 PM**  
**Tompkins County Legislative Offices**  
**121 E. Court Street, Ithaca, NY**

**Present:** Jim Dennis, Jennifer Tavares, Martha Robertson, Will Burbank, Rich John, Svante Myrick, Grace Chiang

**Staff Present:** Heather McDaniel, Ina Arthur (Recording), Mariette Geldenhuys

**Guests Present:** Kate Millar (Renovus), Rick Snyder (TC Finance), David Lubin (Harold's Holding, LLC), Dave Carswell (McGuire Development), Jeff Lehrback (McGuire Development)

**CALL TO ORDER**

Jim Dennis called the meeting of the **Tompkins County Industrial Development Agency** to order at 4:00 pm.

**PRIVILEGE OF THE FLOOR**

Jim Dennis began by reminding all of the conditions speakers agree to on the speakers form for privilege of the floor. There is a 3 minute time limit per speaker; time cannot be transferred to another speaker; there will be no personal attacks; and courteous conduct will be maintained.

Sarah Hess – City of Ithaca – Ms. Hess spoke of how the reduction of green house gases is key and also spoke in favor of the Dryden Solar Projects. As to Harold's Square, she is pleased to see the updated information from the developers on the use of green energy systems. She hopes that this becomes part of the permanent application. However, local labor use should remain a priority.

Marnie Kirchgessner – Social economic disparity is the start of terrorism. She feels the IDA is dismantling the American Dream by fostering wealth inequality of rich vs. poor. She is sick of hearing that the poor are the takers and the rich are the makers. She stated that she is one of the poor with 2/3 of her income going to pay fixed costs in order to live.

Theresa Alt – She spoke against the tax abatements for Harold's Square though it is good to have density and to use green energy at Harold Square. But you are working against yourself when you put buildings in without affordable housing – you are driving your workforce out of the city who will then have to buy cars they can't afford and drive into the City.

Amanda Kirchgessner – 25% of the County budget goes to fund Medicaid – what gets people off of Medicaid? Good paying jobs. If the IDA were doing its job it would be creating good paying jobs. We don't need more housing if people can't afford to live in it. Putting in



market rate housing on the Commons is great for wealthy people. But this community has working people. The IDA should set the standard – it could require a living wage be paid by projects – but it doesn't. She has a list of 11 homes under foreclosure that owe back taxes – this amount could be covered by the taxes abated for the Harold's Square project. Bail out the people who live here, they could use an abatement. She wants a forum where people can just talk to the IDA about these issues. Luxury housing won't fix the problem. We need jobs. Perhaps you should create inclusionary zoning for the project.

Stephanie Hesslop – City of Ithaca – quoted mission of IDA. The primary mission is to create quality jobs – how does tax abatements for Harold's Square meet this mission? There are no jobs promised by this project. Harold's Holding is not a local company and will not create jobs, nor use local construction to build it. Trickle down does not work; Harold's Square will do nothing for the workers who need it most. You don't require a living wage or the use of local labor, but you could. Stop promoting welfare for the wealthy and gentrification. Stop calling yourselves progressive.

Peter Wissoker – He spoke of four reasons not to approve Harold's Square. 1) No livable wage jobs to be created by the project, nor are there any offered by the developers in terms of the maintenance jobs. 2) No affordable housing. 3) Private developers with public interest should only plan to undertake a project they can afford to pay for. 4) Projects like this hurt local landlords. The new "shoppers" downtown that this will bring to the Commons is the only economic development the project seems to be creating. He asked the board to reject the subsidy for Harold's Square. If not, please cap the PILOT at \$16M as shown by the application and current assessment.

Philly DeSarno – She is speaking for the merchants on the Commons. The City has put millions into the Commons and the empty store fronts that remain from the assembled properties for this project are a deterrent for the other merchants there. She has been asked why it is taking so long to complete the Commons. There is a need for housing, but this will help open up other housing in the City. We need this project to move forward. It will also not be an easy project to build – it is a tough sight.

Sarah Blucher – City of Ithaca - The application for Harold's Square has no job creation indicated. Third party property management will take care of the building. She would like to know more about the third party jobs that are mentioned.

Vicky Taylor-Brous – She is the public outreach person for several projects on the Commons. She has worked for the Downtown Ithaca Alliance and has worked with the merchants on the Commons. She owns her own business. She is also co-owner of The Ithaca Bakery/Collegetown Bakery/Rouloffs/and Agava Restaurant. She is not "rich" they have 450 employees; it is not easy to be small business owners. She fully supports the Harold's Square project IDA incentives. It is a difficult site and they are not doing pile driving there. Instead they are using a special type of crane during the building that is very expensive in order to avoid disruptions. This type of development needs to be encouraged to avoid sprawl. She believes the housing market will shift and adjust with more housing units becoming available. She sees this building project as being transformational for Downtown Ithaca. She mentioned support letters from merchants on the Commons – Benjamin Peters, 15 Steps, the DIA, and Green Street Pharmacy.

Mike Cannon – He likes the benefit of walking to work. This building encourages density and prevents sprawl. He is a banker and truly believes that the abatements are needed to get the building built. We can have the housing units here on the Commons or we can have those housing units up in Dryden spread over 20 acres. The abatements are not a give away, the developers will be paying taxes. The developer is “local” and not an offshore company. The stores will create local jobs.

Sarianda Lourdes – Rich and poor mean different things to different people. She spoke to communal living – there is a need to switch to communism and to how the Cayuga Indian nation lived when they ruled the land. To a way of communal health and well being. It will be difficult but we need to think about it. She spoke about money and rich and poor and gentrification downtown.

Irene Weiser – Town of Caroline – She commended the speakers from her side of the room who have talked about the struggles of living in this community. She would like to see the IDA align their caring with the actions and positions you take. Tax abatements are a privilege. They should be given when there is public benefit to be derived – we need to define what those benefits are. She would like to see real evidence that there is a demand for more retail on the commons. We need affordable housing downtown – trickle down housing will not work. A living wage is a must. Local jobs are important. Diversity of hiring should increase. The use of heat pumps – appreciates the update from the developer, thinks the application from the project should be revised to include – also the type of heat pump – totally electric vs. fossil fuel using.

Melissa Kemp – Works for a large national solar developer and has worked for Renovus. She spoke about the Solar PILOT Policy – she appreciates the work on this. A lot of progress on this has happened. The standard policy – she asked that they wait on that – the amount of the PILOT per MW should be lower than what is proposed. Why? NYSERDA has looked at this and is suggesting a lower amount so that projects can bear it. They recommend a range of \$3,000 - \$5,000 per MW. The wind PILOTs have averaged \$8,000/MW but wind produces two times more electricity per MW than solar. The amount should be adjusted lower to compensate. So she urged waiting on finalizing the policy to do a little more work on it.

Alszalyn Colgen – City of Ithaca – From the Bay Area in California. Has seen gentrification there. Gentrification is happening and this is bad. Diversity and helping people of color in Ithaca is necessary. Feels Ithaca is falling into the trap of pushing the poor out and the “funky” people out – the ones that make Ithaca interesting. People’s neighborhoods are being torn apart by this. We need to intervene the process.

Krystal Escobado – Paralegal – She read from the IDA application preamble. Tax abatements justified by community benefits. She spoke about the Harold’s Square application where all the job creation questions were answered “n/a.” This project does not seem like a benefit for the workforce in Tompkins County. There are other communities that have project sign community benefit agreements. You can get third party hiring firms to sign living wage commitments. She feels this is irresponsible to give incentives with out community benefits. She called for economic justice.

Ruth Yarrow – She has lived in Ithaca during three time periods, the 60’s, 70-90s, and now. She has seen a change in who lives in the City. Tax incentives should be used to support low-income housing.

Katie Cox – She agrees with the last three speakers. The Harold’s Square project needs to have more equity.

Svante Myrick – He would like a moment to respond to some of the comments. He agrees that this meeting is not the best forum to discuss a lot of the ideas mentioned. He would be happy to talk with anyone further – in his office or elsewhere. Yes, he would not be able to afford to live in Harold’s Square. But without an increase in the housing units and increase in the workforce, people will be pushed out of the City. In the 1950s there were 30,000 housing units in the City of Ithaca. Today, there are 32,000 housing units in the City of Ithaca. The number of good jobs has greatly increased. Thus the demand has increased and the cost has increased. We need to increase the amount of units. The reason The Bay Area has gentrification, and the cost of living has skyrocketed is that area has resisted housing projects and an increase in units – so the cost of housing has greatly increased. Good examples are Seattle and Portland – they have laws that make sprawl illegal. So developers have to build in the Downtown area. Why do I support this project if I can’t afford to live in it? Is it possible that the project is good for me even though I can’t live there. Think of the other end of the spectrum – Stone Quarry affordable housing project – He heard from middle income people that they can’t qualify for the housing subsidy so what does this project do for them? Currently nobody lives on the site where Harold’s Square is building. This is purely adding to the housing stock. Who benefits? Someone will be able to live there. But if they couldn’t live downtown they will move to the suburbs. From 2000-2012 we did not build in the City. Rents went from \$500/month to \$950/month. Economically integrated neighborhoods don’t pull down the rich, they pull up the poor. Incentives to build market rate housing in the center of the City are good – otherwise it is too expensive and difficult to building in the City. The incentives are good for the long-term fiscal health of the City. It is a necessary part of a housing strategy. There is too much importance being attached to the incentives. Affordable housing costs much more upfront to build and usually those properties are tax-free forever. The City has a number of abatement programs for individuals: STAR program, abatements for Veterans, property improvement assessment freeze to name a few.

## **BUSINESS**

### Harold’s Holding/Harold’s Square – final approval

Ms. Tavares commented that she agrees with Mr. Myrick and is in favor of the Harold’s Square project. She had to leave the meeting due to a prior commitment.

**Jim Dennis moved to approve the Inducement Resolution giving approval to the Harold’s Holding/Harold’s Square project. Rich John seconded the motion.**

Martha Robertson commented that she agrees with Mr. Myrick that this is only one of the tools we use to address the lack of housing. She spoke to the large subsidy that supported

the 210 Hancock affordable housing project. For Harold's Square it will cost about \$43M to build the project. The total abatements are about \$5M. The net new taxes to be paid is about \$3.7M. The bottom line is the net abatement is \$1.7M. This is 4% of the total project costs. This is not coming out of taxes anyone is already paying.

She asked all to show up in Trumansburg on July 20<sup>th</sup> 7:00 PM to support an affordable housing project there that is before the planning board.

She referenced the 2015 State Comptrollers IDA Report – the TCIDA has created 3210 jobs for 56 active projects. The cost of incentives per job is \$931/job compared to Statewide \$2,326/job.

She has spent most of her legislative career focusing on affordable housing. The key to “winning” is to do your research and have your facts correct. For example, the IDA has nothing to do with zoning, so advocates should take the suggestion of inclusionary zoning to the City and Common Council.

Rich John thanked all for coming in and speaking. He supports this project. Why? We need to fight on a number of levels. So if we don't approve a project and it doesn't get built what happens? No new taxes will be created, just the existing taxes will be paid and the housing situation remains as it is. The businesses on the Commons need that boost to be vibrant. If you don't build it there will not be people coming to the Commons. There are parts of the Commons where there is no activity – that needs to change. These new buildings will help with reducing energy needs.

Will Burbank – Will supports the project. I feel that the project would not be built without the abatements. He acknowledged that there is an economic divide between wealthy and poor. The Commons used to be a place where you could buy basic things. This project is named after a store on the Commons – Harold's. This project will help in a way.

Grace Chiang – Supports the project as well. She understands the costs of building a project like this. She is in favor of reducing sprawl. She spoke to the costs due to the project site.

Jim Dennis spoke to the history of the Downtown Commons in the 1970s - growth and changes.

Ms. McDaniel commented that most have spoken to the misunderstandings about the projects. This project doesn't deliver all the possible benefits, but it does address some. Downtown projects are more about density and housing.

She presented an amendment to the Inducement Resolution to address the developer's desire to request the Enhanced Energy Incentive. The project will pledge to do it and be certified through a third party certification program. If they do not meet the requirements the increased incentives are clawed back. She asked that the Resolution be amended to include the Enhanced Energy Incentive and approve the modified PILOT for the incentive. It is still a 10-year PILOT. The project has met all the requirements for financial need to get the 10-year abatement. Over 10 years it is \$1.2M more in abatements. Energy usage will be reported annually under this program.

Ms. Robertson – is glad to see this.

**Svante Myrick moved to add the Enhanced Energy Incentive PILOT structure and certification requirement to the Inducement Resolution on the floor. Rich John seconded the motion. A roll call vote was taken on the resolution with the amendments. The motion was approved 6-0.**

**Jim Dennis moved the changes be reflected in the Agency Project Agreement. Rich John seconded the motion. The motion was approved 6-0.**

#### Mecklenburg Solar – Supplemental Resolution

Ms. McDaniel explained that the SEQR was done by the Town of Enfield – this was an uncoordinated review. The supplemental resolution will ratify the negative declaration of environmental significance for the project by the Town of Enfield.

**Rich John moved to approve the supplemental resolution for the Mecklenburg Solar project and ratify the Town of Enfield’s SEQR negative declaration as to environmental impacts. Martha Robertson seconded the motion. The motion was approved 6-0.**

#### Enfield I Solar – Supplemental Resolution

**Jim Dennis moved to approve the supplemental resolution for the Enfield I Solar project and ratify the Town of Enfield’s SEQR negative declaration as to environmental impacts. Will Burbank seconded the motion. The motion was approved 6-0.**

#### 2016 TCIDA Annual Audit Acceptance and Certification of PARIS Documents

Ms. McDaniel highlighted a few things from the 2016 Audit.

Page 4a – net position for both agencies was 600,012 for 2016

Page 4b – impacts on agency’s future. The fund balance fluctuates due to nature of projects. She also noted that the fund balance may not continue at its current pace without downtown projects.

Page 12 – list of all active bond projects –closed on new money for WGA and Kendal.

Page 14 and 14a – list of active projects. Of the 37 active projects, roughly 1/3 are downtown. New property taxes paid in 2016 were \$4.4 million and roughly 1/3 of that was from downtown projects. The City’s tax rate has dropped 38% since 2009, largely as a result of adding new tax base.

**Rich John moved to accept the 2016 TCIDA Audit and Certify the PARIS Documents. Grace Chiang seconded the motion. The motion was approved 6-0.**

IDA Solar Policy - Discussion

Mr. Dennis asked that this item be moved to a future agenda so that more discussion can be had on the issue.

Staff Report

None.

Approval of Meeting Minutes

**Will Burbank moved to approve the minutes from the April 13, 2017 and May 11, 2017 Board Meetings. Rich John seconded the motion. The motion was approved 6-0** with the following clarification to the April 13<sup>th</sup> minutes: Ms. Robertson was assisting on a volunteer basis with the Dryden Solar projects.

The meeting was adjourned at 6:15 PM.

**Tompkins County Industrial Development Agency**  
**Board of Directors Meeting DRAFT Minutes**  
**August 10 2017**  
**4:00 PM**  
**Tompkins County Legislative Offices**  
**121 E. Court Street, Ithaca, NY**

**Present:** Jim Dennis, Martha Robertson, Rich John, Svante Myrick

**Staff Present:** Heather McDaniel, Mariette Geldenhuys

**Guests Present:** Kate Millar (Renovus), Andy Sciarabba (Lansing Market), Sara Hess

**CALL TO ORDER**

Jim Dennis called the meeting of the **Tompkins County Industrial Development Agency** to order at 4:00 pm.

**PRIVILEGE OF THE FLOOR**

Amanda Kirchgessner – Spoke about Harold Holdings receiving a higher abatement for green building projects – though she has been told that the IDA does not do zoning. Feels that if the City’s CIITAP policy has a diversity portion for housing then this should be included – a socio-economic requirement as well. 100 units in Harold Square, 45 should be reflective of lower socio economic people in the City right now. Hoping you will think about the people who live here and their ability to live here. Urges the IDA to leverage the abatements offered to the builders to include Ithaca’s poorest people.

Ms. Hesslop – Spoke to the criticism of IDA – her problem with IDA has to do with wealth inequality in Tompkins County. Feels the developer will benefit from tax breaks, business owners speak of more people coming to down town as a good thing. But their workers are not benefiting. Housing stock should increase but it doesn’t seem clear if high-income earners will fill these apartments. Western Europe (France) has lower income inequality and has the highest tourism draw. The “sky will not fall” if we follow this model.

Sherry Quartles – TCIDA was created to develop quality jobs – I don’t see this as happening. Spoke to reporting in audit when “not applicable” is shown. For Harold Square no permanent jobs will be created. Feels that we need to take a look at the policies and to stop giving out tax abatements.

**BUSINESS**

Lansing Market – PILOT Extension Request

Ms. McDaniel stated that the request is asking for freezing the PILOT schedule at 36% for three additional years. Ms. McDaniel has reviewed the current financials for the Lansing Market. This was a project to help provide a service that was not available in the community. Also the Lansing Town Center has been delayed due to lack of infrastructure.

There is a plan to increase revenue at the store but it will take longer than anticipated. The resolution will extend the PILOT three more years.

**Svante Myrick moved the Inducement Resolution approving the requested extension of the PILOT agreement. Martha Robertson seconded the motion.**

Ms. Robertson asked for clarification on the PILOT schedule. 36% of the full assessment will be paid beginning with the 2017/18 school tax and 2018 town and county tax – this will continue for the next three years. Over the three years the estimated savings would be approximately \$20,000. The reason to freeze it at 36% is that this is where we are in the schedule.

**A vote was taken. The motion passed 4-0**

#### Harold's Square – Amended Inducement Resolution

Ms. McDaniel stated that this resolution is a bit of clean up regarding the enhanced energy abatement – with this they need to go through NYSERDA's new construction program – this will be certified after the construction – if for some reason they are unable to comply, it was assumed that they would be eligible for the 10-year CIITAP abatement which is less than the enhanced energy abatement – so this resolution is to make that clear in all the legal documents.

**Rich John moved the Amended Inducement Resolution for Harold's Holding LLC clarifying that the project will receive property tax abatements under the CIITAP 10 year PILOT schedule and if the project meets environmental requirements they will also received enhanced energy incentives. Svante Myrick seconded the motion.**

Ms. Robertson asked about why the resolution and the PILOT schedules.

Ms. Geldenhuys stated that it should be known by year 2 if they meet the enhanced energy requirements – if they do not, then they would fall back to the CIITAP 10 year schedule.

Ms. Robertson asked about the agency project agreement and what the NYSERDA multifamily new construction program tier 3 is - this is the highest level that Taitem recommended so that there would be significant energy savings.

**A vote was taken on the motion. The motion passed 4-0**

#### Ulysses Solar III LLC – Application

Ms. McDaniel introduced the application. This is a 2MW community solar array in the Town of Ulysses. It will be located next to Renovus and they will be constructing this project. There have been a lot of changes in the industry. They are requesting a PILOT of \$4,900/MW due to a Federal tariff on imported solar panels. This tariff will come down later in the year. This tariff doubles the cost of panels and increases the construction costs. Also the NYSERDA incentive rate blocks are now much lower. There is also a transition



from net metering to a value of distributed energy resource effectively reducing the value of energy produced from renewable sources.

Mr. John asked if the other solar projects that have recently been approved are now financially viable. Ms. McDaniel stated that if they are under net metering and if they have already ordered their solar panels.

**Svante Myrick moved to accept the application and to send the project to a public hearing. Martha Robertson seconded the motion. A vote was taken. The motion was approved.**

Svante Myrick had to leave – quorum was lost.

There was discussion on the future for solar projects. There was a question if other projects will come back to renegotiate their PILOT agreements.

Ms. Robertson asked about jobs – there are no permanent jobs to be created. Renovus will construct the project and then run the array – there will be no onsite employees.

Mr. John asked why the NYSEDA incentive was reduced? Older projects were able to reserve a higher incentive rate – it is about timing and the design of the policy allocating the incentives. It seems that NYS does not want to subsidize solar projects for a long time.

Mr. John stated that he feels these efforts and the County's Energy Road Map are worthwhile endeavors and that we should think of ways to invigorate our efforts.

Ms. Robertson suggested that Renovus present a one pager at the public hearing that tells more about their story.

#### Mission Statement - Discussion

Comparisons of the TCIDA's mission and other State IDA's missions show that they are all very similar and follow the State legislation guidelines.

It was suggested that we add what the IDA actually does to the mission statement.

Ms. McDaniel will draft changes to the current mission statement and send them out to the Board for comments.

#### Staff Report

Ms. McDaniel updated all that the IDA received a FOIL request regarding Harold's Square from Legal Assistance of Western NY. This has been responded to.

The Dryden solar project SEQR reviews have been finalized and now the projects are waiting on site plan approval.

Ms. McDaniel gave an update on the Arrowhead project – wetland, senior housing, PIF issue. The senior project has drastically changed from 12 units to a three story building with 31 units – the Village does not like the design. The project has changed and may need to come back to the IDA. The project manager has peeled off money from the PIF monies – this was originally approved in 2011 – it is now 2017 and what was to be delivered was not. The ICSD feels that this is not the project they originally approved. When the project timeline was extended last year, there is now an August 31<sup>st</sup> deadline for obtaining a building permit. The IDA will continue to monitor the project as it moves forward.

#### Approval of Meeting Minutes

Minutes will be considered and approved at the next scheduled meeting.

The meeting was adjourned at 5:10 PM