

**Counties of Warren and Washington Industrial Development Agency**

Resolution No. 20-\_\_\_\_\_  
Adopted December \_\_\_, 2020

Introduced by \_\_\_\_\_  
who moved its adoption.

Seconded by \_\_\_\_\_

**RESOLUTION TAKING PRELIMINARY ACTION TOWARD UNDERTAKING A CERTAIN PROJECT, AS DEFINED HEREIN, APPOINTING KDBF VENTURES LLC (THE "COMPANY"), AS AGENT OF THE AGENCY FOR THE PURPOSE OF CONSTRUCTING AND EQUIPPING THE PROJECT FACILITY (AS DEFINED HEREIN) AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGENT AGREEMENT AND CLOSING DOCUMENTS BY AND BETWEEN THE AGENCY AND THE COMPANY**

WHEREAS, the Counties of Warren and Washington Industrial Development Agency (the "Agency") is a body corporate and politic duly organized and existing under Sections 856 and 890-c of the General Municipal Law ("GML") of the State of New York (the "State"), with its principal place of business at 5 Warren Street, Glens Falls, New York; and

WHEREAS, **KDBF Ventures LLC**, a limited liability company established pursuant to the laws of the State of New York, having an address of 29 Old Aspetong Road, Katonah, New York 10536 (the "Company") has requested that the Agency provide financial assistance in the form of a payment in lieu of taxes, a mortgage recording tax exemption and sales tax abatements regarding a project (the "Project") to consist of: (i) the acquisition by the Agency of a leasehold interest in certain real property located at 6030 State Route 9 in the Town of Chester, County of Warren, New York (the "Land"); (ii) the planning, design, expansion, renovation, operation and maintenance by the Company of an approximately 18,000+/- square foot facility which will be used by the Company for the manufacture of medical cannabis and an approximately 42,000 +/- square foot greenhouse facility for use by the Company (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"), all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the "Act"), as amended; and

WHEREAS, under Article 18-A of the General Municipal Law (the "Act"), the Legislature of the State of New York has granted the Agency the power and authority to undertake the Project, as the Act authorizes the Agency to promote, develop, encourage and assists projects such as this

Project and to advance job opportunities, health general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Project will require the Agency and the Company to enter into an agreement whereby the Company will acquire, by lease, and construct the Project Facility and the Agency will lease the Project Facility to the Company; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities which may arise in connection with the transactions contemplated by the lease of the Facility; and

WHEREAS, a lease agreement (the "Lease Agreement") with respect to the Project, along with certain financing documents, will be executed by and between the Company and the Agency; and

WHEREAS, the Agency is a state agency under Section 8-0105 of the Environmental Conservation Law of the State of New York and the Project is an action under Article 8 of said law (Article 8 hereinafter being referred to as the "State Environmental Quality Review Act" or "SEQRA") and under 6 NYCRR Part 617, §§ 617.2(b) and 617.3(g); and

WHEREAS, the Company has submitted to the Agency, and the Agency has reviewed information needed to determine whether or not the Project will have a significant impact on the environment; and

WHEREAS, the acquisition, construction and installation of the Project Facility has not been commenced, and the Agency has not yet authorized the Project; and

WHEREAS, the Agency conducted a public hearing on December 3, 2020 pursuant to Article 18-A of the New York State General Municipal Law (the "Law") before taking official action relating to the Project.

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1. Findings. The Agency has reviewed the application to determine compliance with the requirements of the Act and based on the representations of the Company to the Agency in said application and elsewhere, the Agency hereby makes the following findings and determinations with respect to the Project:

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

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

(C) The acquisition, construction and installation of the Facility and the lease of the Facility to the Company (i) will promote and maintain the job opportunities, health, general



prosperity and economic welfare of the citizens of the State of New York and the Counties of Warren and Washington and improve their standard of living; and (ii) will not result in the removal of an industrial or manufacturing plant of the Company from one area of the State to another area of the State nor will the completion of the Project result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Facility located within the State of New York;

(D) It is in the public interest for the Agency to undertake the Project on behalf of the Company;

(E) The location of the site of the Project is acceptable to the Agency;

(F) The Facility is not known by the Agency to be in material violation of the local zoning laws and planning regulations of the Town of Chester and all regional and local land use plans for the area in which the Facility shall be located;

(G) The Facility and the operations of the Company are not known by the Agency to cause or result in the violation of the health, labor, environmental or other laws of the United States of America, the State of New York, the County of Warren or the Town of Chester;

(H) The Project is an "Unlisted Action" under SEQRA for which the Town of Chester Planning Board (the "Planning Board") has acted as lead agency. On or about May 20, 2019, the Planning Board reviewed the Project Site Plan Application submitted on behalf of the Company and approved said Site Plans, and issued its Negative Declaration finding that the Project will not have a significant impact on the environment; and (ii) the Agency has thoroughly reviewed the environmental assessment form, negative declaration and related supporting information presented to the Agency within the Company's Application for Assistance in order to determine whether the Project might have any potential significant adverse impacts upon the environment. After conducting this review, the Agency has determined that the acquisition, construction and equipping of the Project Facility are consistent with social, economic and other essential considerations and will not result in any significant adverse impacts on the environment. The Agency hereby ratifies the findings and Negative Declaration of the Town of Chester Planning Board. In doing so, the Agency satisfies the requirements of Part 617 of Title 6 of the New York Code of Rules and Regulations and no further SEQRA review is required for the Project; and

(I) The Agency further determines that the Project will consist of a private investment of \$7,000,000.00 and the Agency hereby determines this to be a Material Term, as defined in the Agency's Recapture of Benefits Policy, as amended from time to time, for the purposes of monitoring in accordance with the policies and procedures of the Agency; and

(J) Undertaking the Project will lead to the retention of twenty three (23) and the creation of eighteen (18) full time equivalent job opportunities for the inhabitants of the Counties of Warren and Washington and in the State of New York, the Agency hereby determines this to be a Material Term, as defined in the Agency's Recapture of Benefits Policy, as amended from time to time, in its determination to approve the Project and will require the Company to annually



report its job numbers as required by law.

SECTION 2. Determinations. The Agency hereby determines to:

(A) enter into, execute and deliver the a lease agreement from the Company to the Agency and the Lease Agreement with the Company for the Project Facility subject to the approval of said documents by the Chairman and counsel to the Agency; and

(B) execute and deliver all other certificates and documents subject to the review and approval of said documents by the Chairman and counsel to the Agency.

The Company shall complete the Project by December 31, 2021 (the "Completion Date"). Unless an extension is granted by the Agency, the failure of the Company to complete the Project by the Completion Date shall be considered a "significant change in the use of the facility" as set forth in the Agency's Recapture of Benefits Policy, as amended from time to time.

SECTION 3. Company Appointed Agent of Agency.

(A) The Company is hereby appointed the true and lawful agents of the Agency to:

- (1) construct and install the Project Facility;
- (2) make, execute, acknowledge, and deliver all contracts, orders, receipts, instructions, and writings needed to complete the Project; and
- (3) do all other things requisite and proper for the completion of the Project.

(B) The Company is authorized to proceed with the acquisition, construction and installation of the Project Facility, subject to receiving appropriate municipal approvals needed prior to commencement of construction, and to advance such funds as may be necessary to accomplish these goals.

(C) The Company is also authorized to appoint third party agents to undertake the Project and thereby make available to such third party agents an exemption from New York State sales and use taxes in connection with undertaking the Project. This provision is subject to the Company entering into an Agent Agreement with the Agency.

(D) The Agency hereby authorizes exemptions from State and local sales and use taxes for purchases and rentals related to the undertaking of the Project in an amount not to exceed Seven Thousand Dollars (\$7,000.00), based on eligible Project costs of One Hundred Thousand Dollars (\$100,000.00); which exemption shall expire December 31, 2021.

(E) The Agency hereby approves of the Agent Agreement, a copy of which is incorporated herein by reference, with the Company which shall be subject to the termination and recapture of benefits policy of the Agency. The Agency further authorizes the execution and delivery of the Agent Agreement and any additional documents relative

thereto.

(F) The Agency hereby acknowledges and approves a mortgage tax exemption relating to the Project in an estimated amount of \$62,500.00, based on an estimated mortgage amount of \$5,000,000.00.

**SECTION 4. Payment in Lieu of Tax (PILOT) Agreement.** The Agency's approval is subject to the Company entering into a PILOT Agreement with the Agency whereby the Company agrees to make payments in lieu of taxes in any given year as if the Company were the owner of the Project and not the Agency. The Agency's approval is also subject to the Company agreeing to the terms of the Agency's Recapture of Benefits Policy. The following PILOT schedule is consistent with the Agency's uniform policy is approved as follows:

<b>Tax Roll Year</b>	<b>Town/County</b>	<b>School</b>
2021	Tax Bill	PILOT (\$1,378,000 Base)
2022	PILOT (\$1,135,920 Base)	PILOT (\$1,378,000 Base) + 0% Imp.
2023	PILOT (\$1,196,440 Base) + 0% Imp	PILOT (\$1,378,000 Base) + 0% Imp.
2024	PILOT (\$1,256,960 Base)+ 0% Imp	PILOT (\$1,378,000 Base) + 0% Imp.
2025	PILOT (\$1,317,480 Base)+ 0% Imp.	PILOT (\$1,378,000 Base) + 0% Imp.
2026	PILOT (\$1,378,000 Base)+ 0% Imp.	PILOT (\$1,378,000 Base) + 0% Imp.
2027	PILOT (\$1,378,000 Base)+ 0% Imp.	PILOT (\$1,378,000 Base) + 50% Imp.
2027	PILOT (\$1,378,000 Base)+ 50% Imp.	PILOT (\$1,378,000 Base) + 50% Imp.
2028	PILOT (\$1,378,000 Base)+ 50% Imp.	PILOT (\$1,378,000 Base) + 50% Imp.
2029	PILOT (\$1,378,000 Base)+ 50% Imp.	PILOT (\$1,378,000 Base) + 50% Imp.
2030	PILOT (\$1,378,000 Base)+ 50% Imp.	PILOT (\$1,378,000 Base) + 50% Imp.
2031	PILOT (\$1,378,000 Base)+ 50% Imp.	Property returned to tax rolls

At all times, including during the term of the PILOT Agreement, the Company shall be responsible for the full payment of water and sewer assessments, as may be applicable and any other special district assessments.

The estimated real property tax benefit during the term of the PILOT Agreement is Four Hundred Fifty Eight Thousand Thirty Dollars (\$458,030.00).

As required by the Agency's Uniform Tax Exemption Policy, due to the structure of the base value, the PILOT Agreement as contemplated herein was approved by the Town Board of the Town of Chester on December 8, 2020.



The substance and form of the Agreement for Payments in Lieu of Taxes is hereby approved, subject to approval as to content by the Chairman and the Agency's counsel.

SECTION 5. Administrative and Legal Fees. The Company will pay all costs incurred by the Agency, including but not limited to attorney's fees, which arise out of Company's Application for Financial Assistance, whether or not such assistance is ultimately issued. Agency's attorney's fees will be calculated at a time rate of \$275.00 per hour for attorney's time and \$105.00 per hour for senior legal assistant's time, plus disbursements. Upon closing of all of the Project documents, the Company will pay to the Agency an administrative fee (the "Administrative Fee") of \$52,500.00 based upon an estimated Project cost of \$7,000,000.00 pursuant to the schedule set forth below and contained within the Company's Application for Financial Assistance:

First \$10 Million of Project Costs:	¾ of 1%
Next \$10 Million of Project Costs:	½ of 1%
Next \$10 Million of Project Costs:	¼ of 1 %
Above \$30 Million of Project Costs:	1/8 of 1%.

Following the completion of the Project Facility, the Company shall confirm, in writing, the actual Project cost. In the event that the total Project cost exceeds the estimate provided herein, the Agency may require the payment of the difference that would otherwise be due pursuant to the above-schedule.

SECTION 6. Insurance. The Company shall deliver to the Agency a certificate of insurance, complying with the requirements as required by the Agency, and indicating that:

(a) The Company maintains insurance with respect to the Facility providing the coverage against the 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 with respect thereto, and mandated by the Agency, including, but not necessarily limited to the following:

(i) Insurance protecting the interests of the Company and the Agency against loss or damage to the Project Facility by fire, lightning and other casualties normally insured against with a uniform standard extended coverage endorsement, such insurance at all times to be in an amount not less than the total cash replacement value of the Project Facility, as determined by a recognized appraiser or insurer selected by the Company; provided, however, that the Company may, insure all or a portion of the Project Facility under a blanket insurance policy or policies covering not only the Project Facility or portions thereof but other property. The parties agree that for purposes of this Project the Company will be responsible for providing builders risk insurance.

(ii) Workers' compensation insurance, disability benefits insurance, and each other form of insurance which 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 Facility and for all contractors and subcontracts.

(iii) Insurance protecting the Company and the Agency 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, with a single combined limit of not less than \$2,000,000.00 per accident or occurrence on account of personal injury, including death resulting therefrom, and damage to the Property of others, excluding liability imposed upon the Company by any applicable workers' compensation law; and a blanket excess liability policy in the amount not less than \$5,000,000.00 protecting the Company and the Agency against any loss or liability or damage for personal injury, death or Property damage.

(iv) If applicable and if it is determined that the Project Facility is located within an area identified by the Secretary of Housing and Urban Development as having special flood hazards, insurance against loss by floods in an amount not less than \$1,000,000.00 or to the maximum limit of coverage made available, whichever is less.

(v) Other insurance coverage required by any Governmental Authority in connection with any Requirement.

(b) all policies evidencing such insurance,

(i) name the Company and the Agency as insureds, as their interests may appear, and

(ii) provide for at least thirty (30) days' written notice to the Agency prior to cancellation, lapse, reduction in policy limits or material change in coverage thereof.

**SECTION 7. Approval of Closing Documents.** The substance and form of the Underlying Lease, the Lease Agreement, Project Agreement, Agent Agreement, Environmental Compliance and Indemnification Agreement and accompanying NYS forms, and all other certificates or documents to be delivered or executed and delivered by the Agency (hereinafter collectively referred to as the "Closing Documents") are hereby approved, subject to approval as to content by the Chairman and the Agency's counsel.

**SECTION 8. Approval of Company's Financing Documents.** The Chairman or the Vice Chairman of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company in an estimated principal amount of \$5,000,000.00 to undertake the



Project, acquire the Facility and/or finance equipment and other personal property and related transactional costs. The Agency hereby approves of a mortgage tax exemption in connection with the mortgage, assignment of leases and rents, and/or security agreement set forth in this Section.

SECTION 9. Approval of Sublease. It is the intention of the Company to sublease the Project Facility to Etain, LLC, a limited liability company organized pursuant to the laws of the State of New York. The Agency hereby approves and consents to the sublease from the Company to Etain, LLC, subject to Etain, LLC agreeing to certain terms of the Closing Documents.

SECTION 10. Authorized Representatives. (A) The Chairman or the Vice Chairman is hereby authorized to execute and deliver any and all documents necessitated by this Resolution. If required, the signature of the Chairman or Vice Chairman shall be attested by the Secretary or Treasurer of the Agency (or Agency Counsel, in the absence of a Secretary/Treasurer) who, if required, shall affix a facsimile of the Agency's seal to documents required to be under seal. (B) On the advice of Counsel to the Agency, the Chairman or Vice Chairman shall make such reasonable changes to the documents as shall be required to promote and protect the Agency's interests with respect to the Project. All such changes shall be made prior to the closing.

SECTION 11. Public Inspection. A copy of this resolution and a copy of the Company's Application for Assistance, together with all other application materials not protected under applicable Freedom of Information Laws, shall be placed on file in the office of the Agency. Such documents shall be available for public inspection during normal business hours.

SECTION 12. Document Preparation. Counsel to the Agency is hereby authorized and directed to cooperate with counsel to the Company, as well as all other necessary parties in order to prepare the documents need to undertake the Project and to effectuate the provisions of this Resolution.

SECTION 13. Distribution of Resolution. The Chairman of the Agency is hereby authorized to distribute copies of this resolution to the Company and all other persons requesting it.

SECTION 14. Public Hearing. A public hearing for this Project was duly authorized and held on December 3, 2020 in accordance with the provisions of Article 18-A of the General Municipal Law.

SECTION 15. Further Action. The Chairman of the Agency is authorized to take such further action as shall be necessary to give effect to and implement this resolution.

SECTION 16. Effective Date. This resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote by roll call and was thereupon declared duly adopted.



{Acknowledgement to Follow}

STATE OF NEW YORK     )  
   ) SS:  
 COUNTY OF WARREN     )

This is to certify that I, Alie Weaver, Records Management Officer for the Counties of Warren and Washington Industrial Development Agency, do hereby certify that the foregoing is a true and correct copy and the whole thereof of a Resolution duly adopted by the Counties of Warren and Washington Industrial Development Agency, Glens Falls, New York on the \_\_\_\_ day of December, 2020.

In witness whereof, I have hereto set my hand and affixed the official seal of the Counties of Warren and Washington Industrial Development Agency on this \_\_\_\_ day of \_\_\_\_\_, 2020.

[SEAL]

\_\_\_\_\_  
 Alie Weaver  
 Counties of Warren and Washington  
 Industrial Development Agency

Acknowledged and Agreed to

\_\_\_\_\_  
 By:  
 Title: \_\_\_\_\_ of KDBF Ventures, LLC



RESOLUTION NO. \_\_\_\_\_  
Adopted December 21, 2020

Introduced by \_\_\_\_\_  
who moved its adoption

Seconded by \_\_\_\_\_

**RESOLUTION OF THE COUNTIES OF WARREN AND WASHINGTON INDUSTRIAL  
DEVELOPMENT AGENCY APPROVING OF AN EASEMENT AGREEMENT  
CONCERNING LOCK 8 WAY**

**WHEREAS**, the Counties of Warren and Washington Industrial Development Agency (the "Agency") is a body corporate and politic duly organized and existing under Sections 856 and 890-c of the General Municipal Law ("GML") of the State of New York (the "State"), with its principal place of business at 5 Warren Street, Glens Falls, New York; and

**WHEREAS**, pursuant to Section 858(4) of GML, the Agency has the authority to acquire real property and rights and easements necessary for its corporate purposes in compliance with the local zoning and planning regulations and shall take into consideration regional and local comprehensive land use plans; and

**WHEREAS**, the Agency has taken or will take title to the portions of real property now or formerly owned by People of the State of New York acting through the New York Canal Corporation, the US Environmental Protection Agency, the Town of Fort Edward and WCC, LLC in the Towns of Fort Edward and Kingsbury, as the case may be, in the County of Washington, State of New York that establish the roadway commonly known as Lock 8 Way; and

**WHEREAS**, Lock Way 8 is shown on a survey map entitled "Map of a Survey made for Fort Edward Local Property Development Corp." made by Van Dusen & Steves Land Surveyors and dated August 12, 2020 and intended to be filed in the Washington County Clerk's Office; and

**WHEREAS**, the Agency has determined that it is in the best interests of the Agency to enter into an Easement Agreement with the Fort Edward Local Property Development Corp. and WCC, LLC to grant and establish certain rights of ways to the aforementioned parties and set forth the regulations and obligations concerning the use of Lock 8 Way.

**NOW, THEREFORE, IT IS HEREBY RESOLVED, THAT:**

1. The Agency hereby approves of the Easement Agreement by and between the Agency, the Fort Edward Local Property Development Corp. and WCC, LLC concerning Lock 8 Way, as presented at this meeting and incorporated herein by reference, and subject to final approval of the Chairman and counsel to the Agency.

2. The Chairman, or Vice Chairman in his absence, is authorized to execute and deliver the agreement for sale, conveyance documents, and other such documents as will incorporate the terms set forth above, subject to the approval of the Chairman and Agency's legal counsel as to form and content.

3. This resolution shall take effect immediately.

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

The foregoing resolution was thereupon declared duly adopted.



**2020 WWIDA/WWCDC Compliance Training in  
Sexual Harassment, Workplace Violence, Haz Comm Right To Know, ABO**

<b>Member</b>	<b>Sexual Harassment</b>	<b>Workplace Violence</b>	<b>ABO Webinar</b>
<b>Nick Caimano</b>	10/19/2020	10/19/2020	8/24/2018
<b>Alie Weaver</b>	9/30/2020	9/30/2020	8/2/2019
<b>Ginny Sullivan</b>	9/28/2020	9/28/2020	4/11/2018
<b>Dave O'Brien</b>	10/6/2020	10/6/2020	10/23/2019
<b>Craig Leggett</b>	11/16/2020	11/16/2020	Expired 9/14/19
<b>Bruce Ferguson</b>	Expired 11/5/19	Expired 11/5/19	
<b>Mike Wild</b>			8/15/2018
<b>Michael Bittel</b>	Expired 2/26/20		
<b>Brian Campbell</b>	Expired 10/8/2019	Expired 10/8/2019	Expired 2/3/15
<b>Mike Grasso</b>	9/29/2020	9/29/2020	10/16/2020
<b>Dan Bruno</b>			
<b>Lester Losaw</b>			12/9/2020

**Sexual Harassment and Workplace Violence Prevention is required annually  
ABO Webinar completion is required every three years.**

LAW OFFICES OF NEWELL & KLINGEBIEL

ATTORNEYS AT LAW

16 MAPLE STREET

128 MAIN STREET

P.O. BOX 2152

GREENWICH, N.Y. 12834

GLENS FALLS, N.Y. 12801

Reply to Glens Falls

RONALD L. NEWELL  
DAVID C. KLINGEBIEL\*

TEL: 518-788-1758  
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TEL: 518-668-5968  
FAX: 518-668-5070

December 8, 2020

Kara I. Lais, Esq.  
Fitzgerald, Morris, Baker, Firth, PC  
68 Warren Street  
Glens Falls, NY 12801

\*ALSO ADMITTED IN NEW HAMPSHIRE AND MAINE

**Re: Greenwich Preservation Group, LLC  
73 & 54 Main Street Greenwich, New York  
Counties of Warren and Washington IDA**

Dear Kara:

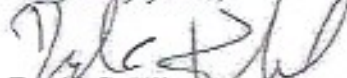
I am writing on behalf of my client Greenwich Preservation Group, LLC to request an extension of the sales tax exemption to June 30, 2021.

The basis for the extension request is that the construction at both locations was shut down earlier this year due to COVID related restrictions which significantly slowed progress at both locations. With respect to 54 Main Street, construction and finish are completed, however, items such as dinnerware, pots, pans and kitchen supplies still need to be purchased.

With respect to 73 Main Street, the gutting and reframing of the property has been completed, however, items that remain outstanding include completion of the HVAC work, electrical, plumbing, sheet rocking, painting and finishing the paved driveway. Unless there is another slow in the progress due to additional COVID related restrictions, it is anticipated that all work will be completed on or before June 30, 2021. Accordingly, an extension of the sales tax exemption to that date is respectfully requested.

Thank you for your consideration of this extension request and I look forward to the Board's decision concerning same.

Very truly yours,



David C. Klingebiel

cc: Greenwich Preservation Group, LLC





**ECONOMIC DEVELOPMENT PROGRAM**

**PUBLIC CUSTOMER AGREEMENT**

**BETWEEN**

**NIAGARA MOHAWK POWER CORPORATION  
d/b/a NATIONAL GRID**

**AND**

***WARREN-WASHINGTON IDA  
5 Warren Street, Suite 210  
Glens Falls, NY 12801***

***Application Number: 5728***

**300 Eric Boulevard West  
Syracuse, New York 13202**

**ECONOMIC DEVELOPMENT PROGRAM  
PUBLIC CUSTOMER/DEVELOPER AGREEMENT**

**1. DEFINITIONS.**

"Agreement" means this document and the Approved Online Application.

"Award Letter" means the letter that informs the Grantee that they have received approval of an Economic Development grant and the amount of that grant.

"Developer" means the entity receiving project funding under this Agreement.

"Project" means the activity described in the Approved Application.

"Program" means the NM Economic Development Program that is providing funding for the Project.

"Company" means Niagara Mohawk Power Corporation, d/b/a National Grid, or its successor or assign.

- 2. SCHEDULE.** The Developer shall complete its Project by the dates set forth in the Approved Application, unless the Project is delayed by occurrences beyond the reasonable control of the Developer. Under no circumstances will funding be released by Niagara Mohawk Power Corporation, d/b/a National Grid, without continued authorization to do so by the New York State Public Service Commission.

- 3. COMPENSATION.** The Project may be funded, in whole or in part, by Company. The Developer shall be responsible for all sums necessary to complete the Project not provided Company. The grant award shall be described in the Agreement and the Award Letter. Under no circumstances will funding be released by Niagara Mohawk Power Corporation, d/b/a National Grid, without continued authorization to do so by the New York State Public Service Commission.

- 4. PAYMENT.** The Developer will advise Company of its completion of the Project. Company will conduct a site visit, inspect the work, determine its completion, and verify its compliance with Program requirements. If Company confirms that the Project has been completed and is in compliance with Program requirements, the parties will execute a Certificate of Project Completion and the Developer will submit a Payment Requisition form. Company will remit a check to the Developer in the amount of the Program grant stipulated in the Award Letter.

- Under certain conditions Customers in the following programs may be eligible for Progress Payments: Strategic Economic Development, Industrial Building Redevelopment, Capital Investment Incentive, Brownfield Redevelopment, 25 Cycle Investment Incentive, Energy Efficiency in Empire Zones and Dairy Industry Productivity. The Customer must



request a Progress Payment in writing on their letterhead prior to submittal of the attached Certificate of Progress Payment. Included in the request must be justification for the Progress Payment, all invoices and evidence that corresponding matching funds have been expended. Progress Payment requests are subject to approval by the Vice President Economic Development and the Sr. Vice President Business Services & Economic Development.

**5. DEVELOPER REQUIREMENTS.**

- The Developer agrees to conduct the Project in accordance with the Approved Application and Program requirements. If the Developer fails to do so, Company may require Developer to return all funding received.
- The Developer will cooperate fully with Company, and provide full information regarding its business and costs to the extent necessary to enable Company to evaluate the Project or determine whether Program funds should be remitted to the Developer. This cooperation shall include the Developer's designation of a representative with whom Company can interact on all matters related to this Agreement and whose decisions are binding on the Developer. If Developer provides false, inaccurate, misleading or otherwise deceptive information, Company may require Developer to return all funding received.
- The Developer will be required to complete a survey upon receipt of funding. Our regulatory requirements prohibit us from continuing to fund recipients who fail to fulfill reporting requirements.
- The Developer agrees to give credit to Company on any collateral materials produced as a result of funding received through the Program.

- 6. CHANGES.** The Developer may request changes or amendments to the Agreement. Any such changes must be in a writing signed by the Developer and Company.

**7. LIMITATION OF NM LIABILITY. NM MAKES NO WARRANTY WHATSOEVER, WHETHER STATUTORY, WRITTEN, ORAL, OR IMPLIED (INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR USE FOR A PARTICULAR PURPOSE) WITH RESPECT TO THE PROJECT.**

To the fullest extent allowed by law, Company is exempt from any and all liability to the Developer for any damage, injuries, or losses of any nature, whether direct or indirect, special, consequential, incidental or otherwise, including, but not limited to, those arising out of, resulting from, or related to this Agreement and/or any Company actions pursuant or related to this Agreement or to the Program. The Developer releases Company, its directors, officers, employees, agents, successors and assigns, from any and all liabilities to the Developer.

- 8. TERMINATION.** Any party to this Agreement may terminate this Agreement for convenience upon thirty (30) days written notice to the other party. Company may terminate the Agreement at any time for any nonconformance with a material term of this Agreement. Company may terminate the Agreement at any time for legislative, court or regulatory changes effecting its rates, tariffs or Economic Development Programs. In the event of any termination, no amount shall be paid or payable by Company for the Developer's termination



costs, including, but not limited to, costs associated with the transfer or termination of personnel or other contracts.

9. **ASSIGNMENT AND SUBCONTRACTING.** The Developer shall neither assign this Agreement, nor subcontract any portion of the work, nor assign any moneys payable under this Agreement, without first obtaining the written consent of Company. Company may reject any assignee, delegatee or other transferee, or any subcontractor, within its absolute discretion, that it considers unable or unsuitable to perform activities under this Agreement. Any Company – authorized assignment or subcontracting of this Agreement shall not relieve the Developer of the responsibility for full compliance with the requirements of this Agreement. The requirements of this Agreement shall be included in any subcontracts placed by the Developer.
10. **THIRD-PARTY BENEFICIARY.** The parties have no intent, and do not create any third-party rights or interest in this Agreement or in the Project.
11. **NOTICES.** Each party shall designate the name and address of that party's representative. Any legal or contractual notices required to be sent to either party shall be deemed duly sent when mailed to the intended party's designated representative by means of certified or registered mail, return receipt requested.
12. **WAIVER.** No term of this Agreement may be waived except in a writing signed by the parties.
13. **LAWS.** This Agreement shall be interpreted and enforced according to the laws of the State of New York, exclusive of those laws determined by application of New York's choice of law principles. All parties hereby consent to personal jurisdiction and venue in the courts in the State of New York.
14. **SEVERABILITY.** To the extent that any provision of this Agreement shall be held to be invalid, illegal or unenforceable, it shall be severed from this Agreement without affecting the validity, legality or enforceability of the remaining provisions of the Agreement.
15. **INTEGRATION AND MERGER.** The parties agree that there are no understandings, agreements, or representations, expressed or implied, other than those expressed herein. This Agreement supersedes and merges all prior discussions and understandings, and constitutes the entire agreement between the parties.



IN WITNESS WHEREOF, the parties hereto agree to the terms and conditions of this Agreement, and agree to be bound by the same, and represent that their signatories have complete authority to sign and accept this Agreement.

**WARREN-WASHINGTON IDA**  
Project #5728

By: 

Title: Chair

Date: Dec 3, 2020

**NIAGARA MOHAWK POWER CORPORATION, D/B/A NATIONAL GRID**

By:   
Arthur W. Hamlin

Title: Manager, Economic Development

Date: December 10, 2020

**COUNTIES OF WARREN & WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY and  
CIVIC DEVELOPEMMENT CORPORATION**

**2021 BOARD MEETING SCHEDULE**

*Unless otherwise specified, all IDA Board Meetings will take place on the **third Monday\*** of each month at **4:00 p.m.** in either:*

*Warren County - Committee Room 2<sup>nd</sup> Floor*

*Washington County- Board of Supervisors' Chambers Bldg B*

*And/Or by Zoom.*

*Please check the Announcement and Agenda on our Website for further location information of each meeting as state mandates due to COVID are subject to change.*

*CDC (Civic Development Corporation) Board Meetings will be held on an **"as needed"** basis. When needed, they will be scheduled to immediately follow the IDA meetings on the same dates below.*

January 19, 2021 (Tuesday) *	
February 16, 2021 (Tuesday) * **	
March 15, 2021	
April 19, 2021	
May 17, 2021	
June 21, 2021	
July 19, 2021	
August 16, 2021	
September 20, 2021	
October 18, 2021	
November 15, 2021	
December 20, 2021	

\* Note Exceptions in January and February due to Federal holidays  
(Martin Luther King Day and Presidents Day)

\*\* February Meeting –Includes Annual Meeting



COUNTIES OF WARREN & WASHINGTON  
Industrial Development Agency and  
Civic Development Corporation

**EXECUTIVE and PARK COMMITTEE MEETING SCHEDULE  
2021**

*Unless otherwise specified, all IDA Executive/Park Committee Meetings will take place on Wednesday at 9:00 a.m. at FitzGerald Morris Baker Firth, PC (FMBF) at 68 Warren Street, Glens Falls, New York.*

*Executive Committee Meetings of the **Civic Development Corporation** will be held on an as needed basis. When held they will be on the same date and will immediately follow the IDA's Committee meeting.*

Date	Location	Held or Not Held
January 6, 2021	FMBF	
February 3, 2021	FMBF	
March 3, 2021	FMBF	
April 7, 2021	FMBF	
May 5, 2021	FMBF	
June 2, 2021	FMBF	
July 7, 2021	FMBF	
August 4, 2021	FMBF	
September 8, 2021	FMBF	
October 6, 2021	FMBF	
November 3, 2021	FMBF	
December 8, 2021	FMBF	

COUNTIES OF WARREN & WASHINGTON  
Industrial Development Agency and  
Civic Development Corporation

*Office will be closed on these days*

**2021 Holiday Schedule**

January 1<sup>st</sup> New Year's Day

January 18<sup>th</sup> Martin Luther King Jr. Day

February 15<sup>th</sup> President's Day

May 31<sup>st</sup> Memorial Day

July 5<sup>th</sup> Independence Day

September 6<sup>th</sup> Labor Day

October 11<sup>th</sup> Columbus Day

November 11<sup>th</sup> Veterans' Day

November 25<sup>th</sup> and 26<sup>th</sup> Thanksgiving Day

December 23<sup>rd</sup> Christmas Day