

**COUNTIES OF WARREN AND WASHINGTON
INDUSTRIAL DEVELOPMENT AGENCY**

5 Warren Street, Suite 210

Glens Falls, New York 12801

Tel. (518) 792-1312

The October Board Meeting for Warren Washington Industrial Development Agency was held on Monday, October 17, 2022 at the Washington County Municipal Building and via Zoom at 4:00 pm. The following were:

PRESENT:

Dave O'Brien	Chair
Nick Caimano	Member
Craig Leggett	Vice Chair
Dan Bruno	Park Chair
Juan Gonzales	Member
Ginny Sullivan	Member
Mary King	Member
Brian Campbell	Member
Tim Robinson	Member

ABSENT:

Mike Wild	Member (attended via Zoom)
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The following were also present:

Kara Lais, Esq.	FitzGerald Morris Baker Firth, PC
Sam Luciano	Fort William Henry
Chris Canada	Hodgson Russ
Robert Hafner	MMSC, LLC
Chuck Barton	CEO

Minutes were taken by:

Alie Weaver	Office Administrator
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Dave O'Brien called the meeting to order at 4:00 p.m. Attendance was taken by roll call and in-person quorum was confirmed.

September Minutes: Mr. Caimano made a motion to approve the September board meeting minutes and Mr. Campbell seconded. All voted in favor by voice vote.

Accounts Payables and Financial Analysis: Mr. Robinson made a motion to approve the September payables and Mrs. King seconded. All voted in favor by roll call vote.

Mr. Barton reviewed the balance sheet and annual comparison income statement with the Board Members. There were no question or comments.

Incentive Projects

Fort William Henry Modification – Mr. Luciano stated that while supply lines hindered the completion of the White Lion Room expansion, the plans have changed to remodel the Carriage House into a banquet room to accommodate 300+ guests and putting a hold on their original plan to expand the White Lion Room. He also stated that this new plan will further increase job count and noted that November 7th is the target date to start construction.

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INDUSTRIAL DEVELOPMENT AGENCY

Ms. Lais stated that General Municipal Law requires a public hearing for benefits that are over \$100,000 and noted the new modifications to the existing project.

Mr. Caimano made a motion approving the resolution to increase the total project costs, authorize sales tax exemptions, and schedule a public hearing. Mr. Campbell seconded and the motion passed from the following votes:

Member	Yes	No	Abstain	Absent
Craig Leggett	x			
Brian Campbell	x			
Tim Robinson			x	
Ginny Sullivan			x	
Mike Wild				x
Dan Bruno	x			
Juan Gonzales	x			
Mary King	x			
Nick Caimano	x			
Dave O'Brien	x			
Total	7	0	2	1

Discussion ensued as to the member's availability to schedule the public hearing and subsequent Special Meeting.

CVE Solar Update – Mr. Barton stated that a meeting took place with the Town of Queensbury and the Queensbury School Superintendent to discuss the CVE PILOT and the IDA is awaiting their input.

Discussion ensued regarding taxing jurisdiction's PILOT opt-out options for negotiations.

Mr. Bruno made a motion to approve the resolution to schedule a public hearing. Mr. Campbell seconded with all voting in favor by voice vote.

Morcon Update – Mr. O'Brien stated that Morcon has delayed their project in effort to research better terms with some of their suppliers.

Emerging Projects – Mr. Barton stated that a large workforce housing project has received preliminary numbers from the IDA and future discussions are planned.

Mr. O'Brien stated that Flyin' Dutch is still waiting for NY State's regulations for inside-growing of cannabis.

Airport Industrial Park

Wetland Delineation Update - Mr. O'Brien stated that the amended jurisdictional determination for lots purchased by Hilltop Construction has not been reviewed yet by the US Army Corps of Engineers due to an

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INDUSTRIAL DEVELOPMENT AGENCY

oversight. He noted that the amended jurisdictional determination for the remaining vacant lots in the Airport Industrial Park has been reviewed but the AJD has not been received yet.

Lot-Merging Update – Mr. O'Brien stated that the Kingsbury Assessor advised that merging the lots would be best.

New Leaf Solar Update – Mr. Barton stated that New Leaf Solar is working on their application for National Grid hook-up and wetland delineation. He also stated appraisals listed in the resolution are not less than fair market value.

Members of the board requested more time to review the New Leaf lease and resolution as it was received very late. This item was tabled for the Special Meeting scheduled for November 2nd.

Canalside Energy Park

Master Plan Update – Mr. Bruno stated that a meeting with LaBella is scheduled for next week to further discuss their workplan schedule, which includes the water, sanitary sewer, storm sewer separation services as well as preliminary electric and gas coordination.

Mr. Barton stated that the timeline reaches out to June-September 2023.

Mr. O'Brien stated that the easiest location for gas is across from the railroad tracks and would need to be accessed underneath the tracks without the right of way.

CHPE Laydown Lease – Mr. O'Brien stated that the CHPE resolution and lease agreement included in the meeting packet states that the option agreement is for six months at \$3,000 for each three-month period and the lease agreement is for three years at \$12,800 per month. He noted that they would be responsible for their portion of the Special District taxes and utilities.

Mr. O'Brien stated CHPE's final Environmental Protection and Public Need was approved by the Public Service Commission for Phase I and Phase II, starting in Putnam down to Whitehead. The expected start date is January-February 2023. He reiterated that the host community benefit payments will begin during the first year of operation, not construction. The first year of operation is currently scheduled for the beginning of 2026.

Mr. Bruno made a motion to approve the resolution approving the CHPE lease agreement in the Canalside Energy Park. Mr. Campbell seconded with all voting in favor by roll call vote.

Other Potential Projects – Mr. Barton stated that there is a pulp distribution company that will be interested in the Canalside Energy Park if they receive support from national railroad companies. He also stated that auto ramp and plywood transloading opportunities are being explored.

MISC – Mr. Bruno requested that meeting information be sent earlier than the day of meetings, if possible. Other members concurred and Mr. O'Brien stated that this concern will be addressed and rectified to the best his and the IDA staff's ability.

Adjournment – There being no further business to discuss, Mr. O'Brien adjourned the IDA October Board meeting at 5:12 pm.

10/17/22

WWIDA
Balance Sheet Prev Year Comparison
As of September 30, 2022

	Sep 30, 22	Sep 30, 21	\$ Change	% Change
ASSETS				
Current Assets				
Checking/Savings				
200 · Cash				
Checking - NOW-10459405	312,476.29	372,059.04	-59,582.75	-16.0%
Escrow - PILOTS 3528097	11,604.79	1,243.26	10,361.53	833.4%
Total 200 · Cash	324,081.08	373,302.30	-49,221.22	-13.2%
220 · Checking GFNB 0736	0.10	0.00	0.10	100.0%
250 · Certificates of Deposit				
251 · CD - GFNB - #842819	-25.79	100,688.00	-100,713.79	-100.0%
253 · CD - GFNB - #842821	-73.81	252,774.00	-252,847.81	-100.0%
Total 250 · Certificates of Deposit	-99.60	353,462.00	-353,561.60	-100.0%
Total Checking/Savings	323,981.58	726,764.30	-402,782.72	-55.4%
Accounts Receivable				
380A · Accounts Receivable	25,000.00	2,740.44	22,259.56	812.3%
380B · Accounts Receivable - PILOTS	0.01	0.01	0.00	0.0%
Total Accounts Receivable	25,000.01	2,740.45	22,259.56	812.3%
Other Current Assets				
200A · Undeposited Funds	0.00	-54,174.26	54,174.26	100.0%
210 · Petty Cash	55.10	143.10	-88.00	-61.5%
381 · Insurance Receivable	5,003.71	4,714.44	289.27	6.1%
480 · Prepaid Insurance	4,265.03	2,335.03	1,930.00	82.7%
Total Other Current Assets	9,323.84	-46,981.69	56,305.53	119.9%
Total Current Assets	358,305.43	682,523.06	-324,217.63	-47.5%
Fixed Assets				
101 · Land	1,126,948.09	1,023,649.09	103,299.00	10.1%
102 · Land-Canalside Energy Park	10,500,000.00	0.00	10,500,000.00	100.0%
104 · Machinery and Equipment				
Furniture and Equipment	357.13	357.13	0.00	0.0%
Office Equipment	1,614.49	1,614.49	0.00	0.0%
Signs & Mailboxes	7,583.50	7,583.50	0.00	0.0%
104 · Machinery and Equipment - Other	-357.38	1,251.62	-1,609.00	-128.6%
Total 104 · Machinery and Equipment	9,197.74	10,806.74	-1,609.00	-14.9%
114 · Accumulated Depreciation	-9,197.99	-9,197.99	0.00	0.0%
Total Fixed Assets	11,626,947.84	1,025,257.84	10,601,690.00	1,034.1%
TOTAL ASSETS	11,985,253.27	1,707,780.90	10,277,472.37	601.8%
LIABILITIES & EQUITY				
Liabilities				
Current Liabilities				
Accounts Payable				
600 · Accounts Payable	1,504.16	2,708.98	-1,204.82	-44.5%
Total Accounts Payable	1,504.16	2,708.98	-1,204.82	-44.5%
Other Current Liabilities				
602 · Payroll Liabilities				
Federal W/H	2,562.78	620.04	1,942.74	313.3%
Medicare - Employee	636.83	256.80	380.03	148.0%
Social Security - Employee	2,004.14	352.22	1,651.92	469.0%
State W/H	2,135.80	1,277.53	858.27	67.2%
602 · Payroll Liabilities - Other	575.87	-316.13	892.00	282.2%
Total 602 · Payroll Liabilities	7,915.42	2,190.46	5,724.96	261.4%
615 · Customers' Deposit	1,500.00	18,904.89	-17,404.89	-92.1%
631 · Due to other governments	14,432.95	-59,318.21	73,751.16	124.3%
650 · Loan	599,727.15	0.00	599,727.15	100.0%
Total Other Current Liabilities	623,575.52	-38,222.86	661,798.38	1,731.4%
Total Current Liabilities	625,079.68	-35,513.88	660,593.56	1,860.1%
Total Liabilities	625,079.68	-35,513.88	660,593.56	1,860.1%
Equity				
924 · Net Assets - Unrestricted	1,997,153.86	1,229,649.64	767,504.22	62.4%

10/17/22

WWIDA
Balance Sheet Prev Year Comparison
As of September 30, 2022

	Sep 30, 22	Sep 30, 21	\$ Change	% Change
Net Income	9,363,019.73	513,645.14	8,849,374.59	1,722.9%
Total Equity	11,360,173.59	1,743,294.78	9,616,878.81	551.7%
TOTAL LIABILITIES & EQUITY	11,985,253.27	1,707,780.90	10,277,472.37	601.8%

WWIDA
Profit & Loss Prev Year Comparison
January through September 2022

	Jan - Sep 22	Jan - Sep 21	\$ Change
Ordinary Income/Expense			
Income			
Nonoperating Revenue			
Donations - Land	10,500,000	469,882	10,030,118
Investment Earnings			
2401 - Interest Income			
2401.1 - Interest Income CDs	-0	-387	387
2401 - Interest Income - Other	146	976	-831
Total 2401 - Interest Income	146	589	-444
Total Investment Earnings	146	589	-444
Other nonoperating revenue			
Grant Funds from CDC	0	118,000	-118,000
Total Other nonoperating revenue	0	118,000	-118,000
10001 - Canalside Sale/Misc Income	2,094	0	2,094
2675 - Lot Sales			
Sale of Land	81,164	0	81,164
Total 2675 - Lot Sales	81,164	0	81,164
Total Nonoperating Revenue	10,583,404	588,471	9,994,932
Operating Revenue			
Charges for Services			
2116 - Application Fees	6,000	4,500	1,500
2116.1 - Project Fees - Existing	13,046	5,250	7,796
2116.2 - Project Fees - New	270,289	229,366	40,923
Total Charges for Services	289,336	239,116	50,220
Grant Revenue - National Grid	86,597	0	86,597
Grant Revenue - USDA	0	12,627	-12,627
Other Operating Revenue			
2770 - Project - Legal	1,700	8,337	-6,637
2770.2 - Misc Income - operating	0	0	0
Total Other Operating Revenue	1,700	8,337	-6,637
Total Operating Revenue	377,633	260,080	117,552
Total Income	10,961,036	848,552	10,112,485
Gross Profit	10,961,036	848,552	10,112,485
Expense			
Nonoperating Expenses			
107 - Airport Industrial Park			
Property/Sewer/Water Taxes AIP	11,437	7,123	4,314
107 - Airport Industrial Park - Other	1,800	1,814	-14
Total 107 - Airport Industrial Park	13,237	8,937	4,300
Total Nonoperating Expenses	13,237	8,937	4,300
Operating Expenses			
Other operating expenses			
Miscellaneous	-0	0	-0
1910.4 - Insurance			
Liability/Commercial Insurance	5,158	600	4,558
Public Officials Liability	1,719	1,719	0
Workers' Comp Insurance	89	265	-176
Total 1910.4 - Insurance	6,966	2,584	4,382
2675.1 - Sale of Lots			
Land conveyance	386	0	386
Legal Exp. for Lot Sales 3.4	0	0	0
Total 2675.1 - Sale of Lots	386	0	386
6460.4 - Contractual Services			
Advertising/Marketing	8,382	713	7,669
Computer & Website Related	2,847	2,166	680
Dues	1,433	0	1,433
Misc Services	0	-29	29
Rent	9,000	6,600	2,400
Subscriptions	792	554	238
Telephone and Internet	1,550	1,371	180
6460.4 - Contractual Services - Other	4,782	5,270	-488
Total 6460.4 - Contractual Services	28,785	16,644	12,141
Other operating expenses - Other	0	1,252	-1,252
Total Other operating expenses	36,137	20,480	15,657
Professional service contracts			

10/17/22

WWIDA
Profit & Loss Prev Year Comparison
January through September 2022

	Jan - Sep 22	Jan - Sep 21	\$ Change
Accounting	12,900	12,700	200
Engineering-Phase II & Wetlids	0	3,600	-3,600
Engineering - Phase I & General	13,326	-30,330	43,655
Legal			
Fees for Project	108,558	34,190	74,368
Total Legal	108,558	34,190	74,368
Total Professional service contracts	134,783	20,160	114,623
Reimbursable Prof. Svc Contract	0	49,380	-49,380
6460.45 · Staff Payroll - WWIDA	99,586	34,630	64,956
6460.5 · Supplies and Materials			
Misc Office Expenses			
Bank Fees	102	0	102
Misc Office Expenses - Other	20	0	20
Total Misc Office Expenses	122	0	122
Office Supplies	2,777	5,047	-2,270
Postage	299	252	47
Total 6460.5 · Supplies and Materials	3,199	5,299	-2,101
9000 · Employee Benefits			
Employee Benefit - Retirement	0	0	0
Medicare - Company	1,149	409	740
Social Security - Company	4,792	2,092	2,700
Unemployment Insurance	125	384	-259
VEHICLE ALLOWANCE	2,825	750	2,075
6460.47 · Staff Telephone Allowance	380	120	260
Total 9000 · Employee Benefits	9,271	3,755	5,516
Operating Expenses - Other	0	0	0
Total Operating Expenses	282,976	133,704	149,272
10000 · Canalside Energy Park			
10100 · Dewatering Expenses			
10110 · Dues & Subscriptions	25	0	25
10115 · Dewatering Insurance	10,838	1,888	8,950
10125 · Land & Building Maintenance	43,493	190,036	-146,543
10130 · Dewatering Taxes	1,235,025	0	1,235,025
10135 · Dewatering Gas & Electric	12,381	341	12,040
Total 10100 · Dewatering Expenses	1,301,762	192,265	1,109,497
10000 · Canalside Energy Park - Other	42	0	42
Total 10000 · Canalside Energy Park	1,301,803	192,265	1,109,538
66900 · Reconciliation Discrepancies	-0	0	-0
Total Expense	1,598,017	334,907	1,263,110
Net Ordinary Income	9,363,020	513,645	8,849,375
Net Income	9,363,020	513,645	8,849,375

10/17/22

WWIDA
Profit & Loss YTD Comparison
January through September 2022

	<u>Jan - Sep 22</u>	<u>Jan - Sep 21</u>	<u>\$ Change</u>
Ordinary Income/Expense			
Income			
Nonoperating Revenue	10,583,404	588,471	9,994,932
Operating Revenue	377,633	260,080	117,552
Total Income	10,961,036	848,552	10,112,485
Gross Profit	10,961,036	848,552	10,112,485
Expense			
Nonoperating Expenses	13,237	8,937	4,300
Operating Expenses	282,976	133,704	149,272
10000 - Canalside Energy Park	1,301,803	192,265	1,109,538
66900 - Reconciliation Discrepancies	-0	0	-0
Total Expense	1,598,017	334,907	1,263,110
Net Ordinary Income	9,363,020	513,645	8,849,375
Net Income	<u>9,363,020</u>	<u>513,645</u>	<u>8,849,375</u>

Adopted October 17, 2022

Introduced by _____
who moved its adoption.

Seconded by _____

**RESOLUTION AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE
FORT WILLIAM HENRY CORPORATION (THE "COMPANY") RELATING TO A
CERTAIN PROJECT IN CONNECTION WITH AN INCREASE OF THE TOTAL
PROJECT COSTS AND AUTHORIZED SALES TAX EXEMPTION**

WHEREAS, The Fort William Henry Corporation, a business corporation established pursuant to the laws of the State of New York, having an address of 48 Canada Street, Lake George, New York (the "Company") has received financial assistance in the form of a partial real property tax abatement, a mortgage recording tax exemption and a sales tax abatement regarding a certain tourist destination project from the Agency (the "Project") to consist of: (i) the acquisition by the Agency of a leasehold interest in certain real property located at 48 Canada Street in the Village and Town of Lake George, County of Warren, New York and being known as tax map parcel 251.18-3-72 (the "Land"); (ii) the planning, design, construction, operation and maintenance by the Company of a three season porch around the White Lion Room and kitchen expansion at the Tankard Tavern (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, the Agency and the Company entered into a Lease Agreement and related documents all dated as of April 13, 2022 in regard to the Project, as more particularly defined therein; and

WHEREAS, the Company has modified its Project to renovate the Carriage House to allow the hosting of weddings and conference events, as such the total cost of the Project has increased to \$6,421,150.00 (previously \$2,410,000.00); and

WHEREAS, in order to complete the Project, the Company has made application to the Agency requesting that the Agency to increase the amount of the sales tax exemption based on increased project costs; and

WHEREAS, Chapters 356 and 357 of the Laws of 1993 require that prior to granting

financial assistance of more than \$100,000.00 to any project, an Agency must (i) adopt a resolution describing the project and the financial assistance contemplated by the Agency with respect thereto, and (ii) hold a public hearing in the city, town or village where the project proposes to locate upon at least ten (10) days published notice and, at the same time, provide notice of such hearing to the Chief Executive Officer of each affected taxing jurisdiction within which the project is located; and

WHEREAS, the Agency desires to authorize the scheduling and conduct of a public hearing concerning the request to increase the amount of the exemption from sales tax.

NOW, THEREFORE, BE IT RESOLVED:

1. The Agency hereby approves of the modification of the Project description to include the renovations and improvements to the Carriage House.
2. The proposed financial assistance being contemplated by the Agency includes an exemption from all state and local sales and use taxes with respect to the qualifying personal property included within the Project or used in the acquisition, construction or equipping of the Project in the estimated amount of \$188,650.00 (previously approved \$87,500.00) based on purchases in the amount of \$2,695,000.00.
3. The Agency is hereby authorized to schedule and conduct a public hearing pursuant to Article 18-A of the General Municipal Law at a date and time determined by the Chairman. The Agency hereby further authorizes the posting and publication of a Notice of Public Hearing for the Project in accordance with the Act and the Agency's policies and procedures.
3. This resolution shall take effect immediately.

Adopted October 17, 2022

Introduced by _____
who moved its adoption.

Seconded by _____

**RESOLUTION ACCEPTING AN APPLICATION FOR FINANCIAL ASSISTANCE
SUBMITTED BY CVE US EI8 QUAKER LLC (THE "COMPANY") RELATING TO A
CERTAIN PROJECT; AUTHORIZING A PUBLIC HEARING WITH RESPECT TO
THE PROJECT; AND DESCRIBING THE FINANCIAL ASSISTANCE BEING
CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT**

WHEREAS, CVE US EI8 Quaker LLC, a limited liability company established pursuant to the laws of the State of New York, having an address of 109 W 27th Street, Floor 8, New York, New York (the "Company") has requested that the Agency provide financial assistance in the form of a partial real property tax abatement, a mortgage recording tax exemption and a sales tax abatement regarding a certain project (the "Project") to consist of: (i) the acquisition by the Agency of a leasehold interest in certain real properties located at 53 Quaker Ridge Boulevard in the Town of Queensbury, County of Warren, New York and being known as tax map parcel number 303.11-1-4.1 (the "Land"); (ii) the planning, design, construction, operation and maintenance by the Company of a 5MWac community solar facility (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, Chapters 356 and 357 of the Laws of 1993 require that prior to granting financial assistance of more than \$100,000.00 to any project, an Agency must (i) adopt a resolution describing the project and the financial assistance contemplated by the Agency with respect thereto, and (ii) hold a public hearing in the city, town or village where the project proposes to locate upon at least ten (10) days published notice and, at the same time, provide notice of such hearing to the Chief Executive Officer of each affected taxing jurisdiction within which the project is located; and

WHEREAS, the Agency is in the process of reviewing and considering the Company's Application requesting the Agency to provide financial assistance for the proposed Project (collectively the "Financial Assistance") in the form of (i) an exemption from all State and local sales and use taxes with respect to qualifying personal property included in and incorporated into the Facility or used in the acquisition, construction or equipping of the Facility, (ii) an exemption for mortgage recording tax on eligible mortgages and (iii) a partial real property tax abatement

through a payment in lieu of tax agreement (the "PILOT Agreement"), pursuant to which the Company would make payments in lieu of real property taxes to each affected tax jurisdiction (the "Affected Tax Jurisdictions"), all of which shall be consistent with the uniform tax exemption policy of the Agency; and

WHEREAS, the Agency desires to (i) accept the Application; (ii) authorize the scheduling and conduct of a public hearing; and (iii) negotiate, but not enter into an Agent Agreement and Project Agreement, pursuant to which the Agency will designate the Company, as its agent for the purpose of acquiring, constructing and equipping the Project, and Lease Agreement, a Leaseback Agreement and related Payment in lieu of Tax Agreement with the Company.

NOW, THEREFORE, BE IT RESOLVED:

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) Pursuant to 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; and

(b) The Agency has the authority to take the actions contemplated herein under the Act; and

(c) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Warren and Washington Counties, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and

(d) The Project will not result in the removal of a 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.

2. The proposed financial assistance being contemplated by the Agency includes (i) an exemption from all state and local sales and use taxes with respect to the qualifying personal property included within the Project or used in the acquisition, construction or equipping of the Project in the estimated amount of \$682,500.00 based on purchases in the amount of \$9,750,000.00; (ii) an exemption from mortgage recording tax for qualifying mortgages in the estimated amount of \$162,844.00 based on mortgages in the approximate amount of \$13,027,500.00; and (iii) a partial real property tax abatement through a PILOT Agreement, pursuant to which the Company would make payments in lieu of real property taxes to the Affected Tax Jurisdictions. The estimated total project cost is \$14,475,000.00.

3. The Chairman, Vice Chairman and/or the Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to cause the issuance of public hearing notices, hold a public hearing in compliance with the Act and negotiate (but not execute or deliver) the terms of (A) the Agent Agreement and Project Agreement, whereby the Agency appoints the Company as its agent to undertake the Project, (B) a Lease Agreement whereby the Company leases the Project to the Agency, (C) a related Leaseback Agreement conveying the Project back to the Company, (D) a PILOT Agreement, whereby the Company agrees to make certain payments-in-lieu-of real property taxes and (E) related documents; provided (i) the rental payments under the Agent Agreement and Leaseback Agreement include payments 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.

4. The Agency is hereby authorized to schedule and conduct a public hearing pursuant to Article 18-A of the General Municipal Law and at a date and time determined by the Chairman. The Agency hereby further authorizes the posting and publication of a Notice of Public Hearing for the Project in accordance with the Act and the Agency's policies and procedures.

5. This resolution shall take effect immediately.

The foregoing resolution was thereupon declared duly adopted.

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 October 2022.

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 October 2022.

[SEAL]

Alie Weaver
Counties of Warren and Washington
Industrial Development Agency

Adopted October 17, 2022

Introduced by _____
who moved its adoption

Seconded by _____

**RESOLUTION OF THE COUNTIES OF WARREN AND WASHINGTON INDUSTRIAL
DEVELOPMENT AGENCY APPROVING AND AUTHORIZING NEGOTIATED
LEASE OF REAL PROPERTY**

WHEREAS, the Counties of Warren and Washington Industrial Development Agency (the "Agency") owns certain property in the Town of Fort Edward, County of Washington; and

WHEREAS, CHPE, LLC, a New York limited liability company desires to lease from the Agency the following real property (referred to as the "Property") for the purpose of using the Property as a laydown yard for construction support services:

8.0+/- acre parcel located at 470 Lock 8 Way, Town of Fort Edward
Portion of Tax Map Parcel No. 163.-2-20.1

WHEREAS, pursuant to section 6(c) of the Agency's Disposition of Property Guidelines and Section 2897 of the Public Authorities Law, the Property may be leased by negotiation and for less than fair market value if the disposal is intended to further the economic development interests of the Agency; and

WHEREAS, the estimated fair market value of the lease of the Property is \$8,000.00 per year; and

WHEREAS, based on the foregoing, the Agency has determined that the lease of said Property is in the economic development interests of the Counties of Warren and Washington as the lease of the Property will assist to offset the expenses of the Agency due to its ownership of the Property so that the Agency can use its resources for other economic development initiatives and is in accord with the public provisions of applicable federal, state and local laws and the Agency's Disposition of Property Guidelines; and

WHEREAS, CHPE, LLC has requested an option period within which it can exercise its right to lease the Property for a maximum term of six (6) months with a payment of \$3,000.00 for each three month period.

NOW, THEREFORE, it is hereby

RESOLVED that after due deliberation thereon, the Agency has determined that the disposal of the Property by lease intends to further the economic development interests of the Agency.

RESOLVED, that the lease of Property is not for less than fair market value.

RESOLVED, that:

The Agency agrees to extend an option to lease the Property to CHPE LLC for a maximum option period of six months with a payment of \$3,000.00 for each three month period.

The Agency agrees to lease the Property described above CHPE LLC or its permitted assigns (the "Tenant") for the monthly rental of Twelve Thousand Eight Hundred Dollars (\$12,800.00) per month or One Hundred Fifty Three Thousand Six Hundred Dollars (\$153,600.00) per year, in accordance with the terms and conditions set forth in the Lease Agreement, the terms of which are incorporated herein by reference.

RESOLVED, that the Agency acknowledges that any such lease of the Property shall be carried out pursuant to the Agency's Property Disposition Policy and the applicable provisions of the Public Authorities Accountability Act, as it may be amended and the Agency hereby authorizes the provision of notice of the lease to various State agencies as may be required.

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

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

The foregoing resolution was thereupon declared duly adopted.

COMPARABLE MARKET RENT STUDY

FOR PROPERTY LOCATED AT:

County Line Rd & Ferguson Lane

Town of Kingsbury, NY

County of Washington

Parcel #s:

137.-2-1

137.-2-1.33

137.-2-1.34

137.-2-1.35

AS OF:

September 30, 2022

PREPARED FOR:

David O'Brien, Chair

Warren-Washington County IDA

5 Warren Street

Glens Falls, NY 12801

PREPARED BY:

Edward J. Gallacher, CCIM

NYS Certified General Appraiser (#46-21039)

42 Genesee Street

New Hartford, NY 13413

EDWARD J GALLACHER, CCIM
Commercial Real Estate Appraiser
42 Genesee St, Suite #2
New Hartford, NY 13413
(315) 733-9310

September 30, 2022

David O'Brien, Chair
Warren-Washington County IDA
5 Warren Street, Glens Falls, NY 12801

RE: Comparable Market Rent Study for Properties Located at 626 County Line Rd, Kingsbury, NY. A total of 18± acres is contained within 4 parcels.

Parcel #s:

137.-2-1
137.-2-1.33
137.-2-1.34
137.-2-1.35

Dear Mr. O'Brien,

Pursuant to your request, I have completed a market rate rent evaluation for the properties referenced above. The intended use of this report is to provide you with potential market rental rates for the Subject property if utilized as a site for a photovoltaic solar array. The analysis assumes the Subject land is suitable for this purpose.

A chart on a following page summarizes acreage, rental rates and locations of properties that have been leased as sites for solar arrays.

The comparable rental rates per acre vary from a high of \$1,750 to a low of \$930. The highest rental rate in the group is for a property in the Town of Perth (Comp#1). It is a recent transaction and is the closest comparable, geographically, to the Town of Kingsbury. The property is adjacent to a new substation. Another property in the Town of Perth (Comp #2) is leased for \$1,500 per acre, annually.

RE: Comparable Market Rent Study for Properties Located at 626 County Line Rd, Kingsbury, NY. A total of 18± acres is contained within 4 parcels.

The "mean" (average) rental rate for all 6 comparable properties is \$1,352 per acre, annually. The size of the six rental properties ranges from 14 to 52 acres.

Solar Sites - Land Lease Data					
		Annual			
Rental		Per Acre			
<u>Comp #</u>	<u>Acres</u>	<u>Rental Rate</u>	<u>Location</u>	<u>County</u>	<u>Comments</u>
1	50	\$1,750	4611 State Rt 30 T/Amsterdam (Perth)	Fulton	Adjoins a new Substation
2	52	\$1,500	4672 State Rt 30 T/Amsterdam (Perth)	Fulton	Close to a Substation
3	20	\$1,500	Stone Rd, T/Westmoreland	Oneida	
4	14	\$1,430	4534 State Rt 233, T/Westmoreland	Oneida	\$20,000 Total, 13-15 acres, plus 5 acres wetlands
5	20	\$1,000	Carder Lane, T/Frankfort	Herkimer	
6	20	\$930	1362 Albany Rd, T/Frankfort	Herkimer	
Count: 6					
		Annual			
		Per Acre			
	<u>Acres</u>	<u>Rental Rate</u>			
Low	14	\$930			
High	52	\$1,750			
Mean	29	\$1,352			
Median	20	\$1,465			

Respectfully Submitted

Edward J. Gallacher

Edward J. Gallacher, CCIM

NYS Certified General Appraiser

ID # 46-21039

Email: ccim@egall.net / Fax #: 315.292.1306 / Office #: 315.733.9310

COMPARABLE MARKET RENT STUDY

FOR PROPERTY LOCATED AT:

470 Lock 8 Way
Town of Fort Edward, NY
Parcel #: 163.-2-20.1

AS OF:

October 5, 2022

PREPARED FOR:

David O'Brien, Chair
Warren-Washington County IDA
5 Warren Street
Glens Falls, NY 12801

PREPARED BY:

Edward J. Gallacher, CCIM
NYS Certified General Appraiser (#46-21039)
42 Genesee Street
New Hartford, NY 13413

EDWARD J GALLACHER, CCIM
Commercial Real Estate Appraiser
42 Genesee St, Suite #2
New Hartford, NY 13413
(315) 733-9310

October 5, 2022

David O'Brien, Chair
Warren-Washington County IDA
5 Warren Street, Glens Falls, NY 12801

RE: Comparable Market Rent Study for Property Located at 470 Lock 8 Way,
Fort Edward, NY. Includes 8± acres within a 50.96± acre parcel.
Parcel #: 163.-2-20.1

Dear Mr. O'Brien,

Pursuant to your request, I have completed an evaluation for the property referenced above. The intended use of this report is to provide you with potential market rental rates for the Subject property if utilized as a site for equipment and material storage on 8 acres of the larger parcel. The land fronts on a paved roadway. This analysis assumes the Subject land is suitable for this purpose.

I have searched the market for rental data for the purpose of estimating a realistic rental rate for the 8-acre area that you plan to lease for a 3-year term. However, I have not located any reliable land lease transactions that can be considered as comparable rentals.

Therefore, as an alternative, I have applied a technique using the most recent "published" financial factors for commercial and industrial properties that are subject to a land lease. The selected factor was then applied to the sale price of recently sold land sales in the Subject property's market area. This resulted in an estimated rental rate for 8 acres of the larger parcel.

RE: Comparable Market Rent Study for Property Located at 470 Lock 8 Way,
Fort Edward, NY. Includes 8± acres within a 50.96± acre parcel.

Parcel #: 163.-2-20.1

The sale properties selected were comparable sales from other appraisals that I completed for you. Also, I reviewed a commercial appraisal that you sent me that involved the Lock 8 Way land that was completed by another appraiser. In addition, I did a current land sale search of commercial and industrial properties utilizing an online service.

The five properties selected are believed to be like the Subject parcel with regards to functional utility, zoning, and available utilities/services. The parcel sizes ranged from 2 acres to 12 acres. The sale prices per acre ranged from \$6,837 to \$14,218. The Mean (average) was \$9,658 per acre. A financial rate of 10.57% was applied to the sale prices per acre of each sale property to develop an estimated rental rate for the Subject parcel.

Conclusion: The foregoing analysis resulted in a Mean potential annual rental rate of \$1,021 per acre for the Subject parcel, if leased. Rounded = **\$1,000 per acre.**

Respectfully Submitted



Edward J. Gallacher, CCIM
NYS Certified General Appraiser
ID # 46-21039

Email: ccim@egall.net / Fax #: 315.292.1306 / Office #: 315.733.9310

Imputed

Sale #	Sale Price		Yield Factor	Annual Rental Rate	Location	Utilities / Services	Property Class/Zoning	Sale Date	TM #	
	Acres	/ Acre								
1	7.07	\$75,000	\$10,608	10.57%	\$1,121	10921 State RT 149, Fort Ann	Electric, No Water, Sewer, or Gas	330-Vac Land Located in Comm Areas	4/15/2022	111.-1-16.9
2	10.97	\$75,000	\$6,837	10.57%	\$723	4236 State RT 4, Kingsbury	Electric, No Water, Sewer, or Gas	COM-1A	10/11/2019	121.-1-17.5, -17.6, -17.7
4	3.92	\$36,500	\$9,311	10.57%	\$984	4236 State RT 4, Kingsbury	Electric, No Water, Sewer, or Gas	COM-1A	8/21/2020	121.-1-17.7
3	12.3	\$90,000	\$7,317	10.57%	\$773	167 State RT 29, Easton	Electric, No Water, Sewer, or Gas	330-Vac Land Located in Comm Areas	4/12/2019	227.-1-13
5	2.11	\$30,000	\$14,218	10.57%	\$1,503	3377 State RT 4, Kingsbury	Electric, No Water, Sewer, or Gas	331-Comm. Vacant W/ Minor Improvements	7/28/2020	137.-1-17

Count: 5

Count: 5		Sale		Imputed
	<u>Acres</u>	<u>Price</u>	<u>Price / Acre</u>	Annual Rental Rate (Hypothetical)
Low	2	\$30,000	\$6,837	\$723
High	12	\$90,000	\$14,218	\$1,503
Mean	7	\$61,300	\$9,658	\$1,021
Median	7	\$75,000	\$9,311	\$984

Adopted October 17, 2022

Introduced by _____
who moved its adoption

Seconded by _____

**RESOLUTION OF THE COUNTIES OF WARREN AND WASHINGTON INDUSTRIAL
DEVELOPMENT AGENCY APPROVING AND AUTHORIZING NEGOTIATED
LEASE OF REAL PROPERTY**

WHEREAS, the Counties of Warren and Washington Industrial Development Agency (the "Agency") owns certain property in the Town of Kingsbury, County of Washington; and

WHEREAS, New Leaf Energy, a subsidiary of Borrego Solar Systems, Inc., desires to lease from the Agency the following real property (referred to as the "Property") for the purpose of using the Property to construct a solar array:

18+/- acre parcel located at County Line Road and Ferguson Lane, Town of Kingsbury
Portions of Tax Map Parcel Nos. 137.-2-1; 137.-2-1.33; 137.-2-1.34; 137.-2-1.35

WHEREAS, pursuant to section 6(c) of the Agency's Disposition of Property Guidelines and Section 2897 of the Public Authorities Law, the Property may be leased by negotiation and for less than fair market value if the disposal is intended to further the economic development interests of the Agency; and

WHEREAS, the estimated fair market value of the lease of the Property is \$1,352.00 per acre per year or \$24,336.00 per year; and

WHEREAS, based on the foregoing, the Agency has determined that the lease of said Property is in the economic development interests of the Counties of Warren and Washington as the lease of the Property will assist to offset the expenses of the Agency due to its ownership of the Property so that the Agency can use its resources for other economic development initiatives and is in accord with the public provisions of applicable federal, state and local laws and the Agency's Disposition of Property Guidelines.

NOW, THEREFORE, it is hereby

RESOLVED that after due deliberation thereon, the Agency has determined that the disposal of the Property by lease intends to further the economic development interests of the Agency.

RESOLVED, that the lease of Property is not for less than fair market value.

RESOLVED, that:

1. The Agency agrees to lease the Property described above to New Leaf Energy or its permitted assigns (the "Tenant") for the rental amount of One Thousand Eight Hundred Dollars (\$1,800.00) per acre per year or Thirty Two Thousand Four Hundred Dollars (\$32,400.00) per year with 1% annual increases, in accordance with the terms and conditions set forth in the letter of intent dated September 20, 2022, which includes an option period for 540 days with the right to extend for up to 2 additional 365 day periods.

RESOLVED, that the Agency acknowledges that any such lease of the Property shall be carried out pursuant to the Agency's Property Disposition Policy and the applicable provisions of the Public Authorities Accountability Act, as it may be amended and the Agency hereby authorizes the provision of notice of the lease to various State agencies as may be required.

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

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

The foregoing resolution was thereupon declared duly adopted.

OPTION AND LEASE AGREEMENT

This Option and Lease Agreement (this "**Agreement**") is made as of this ___ day of _____, 2022 ("**Effective Date**"), by and between the **Counties of Warren and Washington Industrial Development Agency**, a public benefit corporation organized under the laws of the State of New York having an address of 5 Warren Street, Glens Falls, New York 12801 ("**Landlord**"), and CHPE LLC, a limited liability company organized and existing pursuant to New York State law, having an address of Pieter Schuyler Building, 600 Broadway, Albany, New York 12207 ("**Tenant**" and collectively with the Landlord "**Parties**").

SECTION 1 **DEMISED PREMISES AND AGREEMENT OF LEASE**

1.1 **Demised Premises.** Landlord owns in fee simple certain real property located at 470 Lock 8 Way in the Town of Fort Edward, County of Washington, State of New York and described in the deed recorded in the Washington County Clerk's Office as Instrument # 2022-1101 and known as Tax Map ID No. 163.-2-20.1 on the Washington County Tax Map ("**Property**"), a copy of said deed is attached hereto as **Exhibit A** and incorporated herein by reference.

1.2 **Agreement of Lease.** In the event that Tenant exercises the option, as discussed in Section 2 below, Landlord leases to Tenant and Tenant leases from Landlord a portion of the Property, consisting of approximately 8 acres ("**Premises**"), subject to the terms and conditions contained herein (the "Lease"). A sketch of the Premises is attached hereto as **Exhibit B** and incorporated herein by reference.

SECTION 2 **OPTION**

2.1 **Option.** Landlord desires to grant to Tenant and Tenant desires to obtain from Landlord an exclusive option to lease ("**Option**") the Premises for a purchase price of Three Thousand Dollars (\$ 3,000.00 US) ("**Option Purchase Price**"). The Option shall commence on the Effective Date of the Agreement and shall expire three (3) months therefrom, subject to further extension as may be agreed to in writing by the Parties. The period of time between the Effective Date of this Agreement and the expiration, termination, or exercise of the Option shall be referred to as the Option Period. The Option Period may be extended by the Tenant for an additional three (3) month Period upon payment to the Landlord of Three Thousand Dollars (\$3,000.00 US). If the Tenant does not exercise the Option within the Option Period, including as the Option Period may be extended by the Parties, the Option shall expire.

2.2 This section is intentionally left blank.

2.3 **Exercise of Option.** Tenant may exercise the Option at any time during the Option Period by delivering written notice to the landlord in accordance with the notice provisions outlined herein exercising the Option and indicating its intent to lease the Premises ("**Option Notice**"). In the event that Tenant exercises the Option and delivers an Option Notice to the Landlord, Landlord shall be obligated to lease the Premises to Tenant, and Tenant shall be obligated to lease the Premises from Landlord subject to the terms contained herein.

2.4 **Government Approvals.** Landlord agrees that Tenant's ability to use the

Premises is contingent upon the suitability of the Premises for use as a laydown yard and Tenant's ability to obtain and maintain all requisite and necessary approvals from any governing body having jurisdiction over the Champlain Hudson Power Express ("**Project**"). Tenant's obligation to lease the Premises is subject to Tenant obtaining all requisite and necessary approvals from any governing body having jurisdiction over the Project and all conditions precedent and contingencies as required by this Agreement being fulfilled.

SECTION 3

TERM

3.1 **Term.** The term of the Lease ("**Term**") shall be for a period of three (3) years, commencing upon the start of construction ("**Commencement Date**"), subject to further extension as may be agreed upon by the Parties in writing.

3.3 **Lease Year.** The term "Lease Year" shall mean each twelve (12) month period beginning on the first day of the calendar month following the Commencement Date and expiring on the last day of the twelfth calendar month thereafter. Any period of time between the Commencement Date and the commencement of the first Lease Year, or any period subsequent to the expiration or termination of the Term, as it may be extended by the Parties in writing, but prior to the expiration of the then current Lease Year, shall be prorated and adjusted with respect to Base Rent or any other matters or charges provided for in this Lease in which the Lease Year is a factor.

SECTION 4

RENT

4.1 **Rent.** Tenant shall pay **monthly** rent in the amount of Twelve Thousand Eight Hundred Dollars (\$12,800.00 US). Such rent shall be due within ten (10) days of the Commencement Date and within ten (10) days of the first of each month thereafter throughout the Term, including as the Term may be extended as agreed upon in writing by the Parties. No payments made during the Option Period shall be credited towards any rent due.

4.2 **Nonpayment and Opportunity to Cure.** In the event that Tenant fails to make timely payments, Landlord shall provide Tenant with notice of such nonpayment in accordance with the terms of this Agreement and shall provide Tenant with a reasonable opportunity to cure any nonpayment. In the event that Tenant fails to cure any nonpayment within thirty (30) days of Rent coming due, Landlord may terminate this Agreement by providing notice to Tenant as detailed herein. Notwithstanding the foregoing, Landlord agrees that it will promptly notify each person or entity providing or participating in a financing for the Project, including industrial development agencies (each, a "**Financing Party**") or such Financing Party's designated representative, in writing, of any nonpayment by Tenant which would entitle Landlord to terminate this Agreement. The Financing Parties (or their designee) may, but shall not be required to, cure any such default or breach within thirty (30) days in the event of any payment default from the Financing Parties' (or their designee's) receipt of the notice described in the immediately preceding sentence. Landlord agrees that it will not terminate, cancel or suspend this Agreement without the prior written consent of the Financing Parties except following the expiration of any cure periods set forth in this section following an applicable default or breach and that it will not amend or modify this Agreement without the prior written consent of the Financing Parties.

SECTION 5

USE

5.1 **Use.** Tenant and any other person or entity authorized by Tenant shall use and occupy the Premises for Project construction support services. Unless otherwise agreed to in writing by the Parties, Tenant shall not store any unreasonably dangerous or hazardous substances on the Premises, and shall not encroach on any other properties or areas of the Landlord outside the Premises

SECTION 6

ACCESS

6.1 **Tenant Access.** Tenant and its contractors, subcontractors, and agents shall at all times have access to the Premises, including across the Property as necessary, and shall be permitted to transport any items related to the Project to the Premises, including but not limited to vehicles and/or heavy equipment/machinery.

6.2 **Landlord Access.** Landlord may enter the Premises to inspect the Premises and/or to complete necessary repairs. Prior to entering the Premises, Landlord shall provide Tenant with at least twenty four (24) hours advance notice of Landlord's intention to enter the Premises and shall coordinate with Tenant as to a reasonable time for entry onto the Premises. Tenant and any other person or entity authorized by Tenant may accompany Landlord upon any entrance into the Premises at the Tenant's sole discretion. Tenant shall notify Landlord in the event of any emergency and shall provide Landlord reasonable access to the Premises as necessary to address or assess any such emergency.

6.3 **Maintenance of Common Areas.** Landlord agrees to operate, manage, equip, light, repair, and/or maintain any common areas, including areas used by the Tenant for access and/or parking. Landlord further agrees to maintain such common areas that may be used by the Tenant in good repair and to be reasonably free of refuse, ice and snow.

SECTION 7

TAXES

7.1 **Taxes.** Tenant shall pay all real property taxes, payments in lieu of taxes, assessments, embellishments, sewer and water taxes and charges, pollution, pure water, and other environmental control charges, and other governmental charges, general or special, ordinary or extraordinary, unforeseen as well as foreseen of any kind or nature whatever, assessed, levied, confirmed, imposed or which become a lien upon the land, building, and improvements comprising the Property of which the Premises are a part assessed upon the Property in connection with the Project and/or as a result of any improvements installed on the Premises for the Project. The term "Taxes" as used in this section means any and all taxes assessed on the Property, including but not limited to real property taxes and school taxes. Landlord shall promptly notify Tenant of any charges so that Tenant may satisfy its obligations under this section of the Agreement.

SECTION 8

ALTERATIONS, IMPROVEMENTS, AND FIXTURES

8.1 **Alterations and Improvements Permitted.** Any changes, alterations,

additions or improvements in, or to the Premises, of any kind or nature whatever may be done by Tenant at its own cost and expense following consent and approval by the Landlord, which consent and approval will not be unreasonably delayed, conditioned, or withheld.

8.2. **Removal of Improvement and Fixtures.** The Parties agree that any improvement and/or fixtures placed upon the Premises by Tenant are to remain the property of Tenant and may be removed by Tenant from the Premises promptly at the expiration of the Term, unless otherwise agreed to in writing by the Parties.

SECTION 9

SIGNS

9.1 **Signs.** Tenant may install and maintain on the Premises any signs required for the Project, including as may be required by State or Federal Law or by any regulatory permits authorizing the Project.

SECTION 10

UTILITIES

10.1 **Utilities.** Tenant shall obtain and pay for any desired utility service and/or utility and other infrastructure improvements to the Premises. Landlord shall not unreasonably interfere with Tenant's ability to obtain utility service to the Premises and shall provide reasonable assistance as necessary.

SECTION 11

MAINTENANCE

11.1 **Maintenance and Repairs.** Tenant shall maintain the Premises in reasonably good order and condition, ordinary wear and tear excepted. Tenant may make any necessary repairs to the Premises or may reasonably request that Landlord make such repairs at Landlord's expense.

11.2 **Refuse Removal.** Tenant shall remove garbage and other refuse from the Premises on a regular basis. Tenant shall not burn any materials or refuse of any description upon the Premises. Tenant also agrees to keep any common areas free from rubbish, dirt, garbage and other refuse originating on the Premises. Tenant shall engage and pay for its own hazardous waste disposal if any Hazardous Waste is generated on the Demised Premises and permitted hereunder.

SECTION 12

INSURANCE

12.1 **Tenant's Insurance.** Tenant shall procure or cause to be procured by its contractors, at its own expense, with casualty company qualified to do business in the State of New York, general liability insurance with coverage in an amount not less than \$2,000,000.00 per accident or occurrence on account of bodily injury, including death resulting therefrom, and \$1,000,000.00 per accident or occurrence on account of damage to property. Such insurance policies shall name Landlord as an additional insured. In addition, each such insurance policy shall contain a contractual liability endorsement specifically covering the indemnities set forth in this Lease. Said liability insurance shall cover physical or property damage to contiguous or

adjacent property owned by Landlord for acts caused by Tenant, its agents, employees, invitees, contractors and customers. Tenant further agrees to maintain at its own expense, fire and casualty insurance covering all of its fixtures and contents placed in or upon the Premises and worker's compensation insurance as required by the laws of the State of New York. Said policies shall have include a waiver of subrogation by the insurance carrier. A certificate of insurance for the above policies shall be furnished to Landlord on or before the date of delivery of possession of the Premises to Tenant.

12.2 **Landlord's Insurance.** Landlord shall hold general liability insurance covering the Premises. Landlord shall add Tenant as an additional insured with respect to the aforementioned insurance coverage.

SECTION 13 **PREMISES UNTENANTABLE**

13.1 If the Premises shall be damaged by fire or other causes, but are not wholly untenantable, the damage to the Premises shall be promptly repaired by Landlord at its own expense. In such event the Lease shall not terminate, but shall remain in full force and effect, and the Rent shall abate pro rata while the Demised Premises is being repaired unless such damage was caused by the negligent act or omission of Tenant, its servants, employees, agents, visitors or licensees. Due allowance shall be made for delays from labor troubles, material shortages, or any other causes, whether similar or dissimilar to the foregoing, beyond Landlord's control. If, however, the Demised Premises are rendered wholly untenantable by fire or other causes, and Landlord does not intend to repair the same, Landlord may, within thirty (30) days after such damage or destruction, give Tenant notice in writing of its decision, and thereupon this Lease shall terminate and Tenant shall vacate the Premises and surrender the same to Landlord, paying Rent to the time the Premises or Demised Premises were damaged.

SECTION 14 **EMINENT DOMAIN**

14.1 If the whole or any part of the Property shall be taken or condemned by any competent authority for any public or quasi-public use or purpose, then, in that event, the Term, at the option of Landlord, shall cease and terminate. Landlord shall immediately provide notice to Tenant of such condemnation and the Lease may be terminated by the Tenant in the Tenant's sole discretion. Upon such termination of the Lease, the Term shall cease and Rent shall be apportioned on a pro rata basis as of the date of condemnation.

SECTION 15 **SUBORDINATION**

15.1 Tenant herein agrees that this Lease and any optional renewal thereof is automatically subordinate to any and all mortgages or consolidated mortgages, deeds of trust, or renewals, modifications, increases or extensions thereof, or to any other forms or methods of financing, or refinancing of the Premises, or any part thereof, whether such mortgages, deeds of trust, or other forms or methods of financing or refinancing are now or are hereafter executed, delivered, and recorded, and Tenant does herein covenant that it will, upon demand at any time, execute, acknowledge, and deliver any and all instruments that may be deemed necessary or proper by Landlord or its lender to further evidence this subordination. If Tenant shall fail at any time to execute and deliver any such subordination instruments, upon request by Landlord, its

assigns or successors, Landlord, its assigns or successors, in addition to any other remedies available to it, may execute, acknowledge and deliver such subordination instruments as the attorneyin fact of Tenant and in the Tenant's name and place; and Tenant hereby irrevocably appoints Landlord, its assigns or successors, as its attorneyin fact for such purpose.

SECTION 16
ASSIGNMENT OR SUBLET

16.1 Landlord shall not assign or encumber this Lease. Tenant shall have the right to assign, lease or sublease, or pledge as collateral this Agreement or the leasehold granted hereby to Financing Parties in connection with arrangements made by Tenant to secure financing associated with funding Project construction. Tenant will provide Landlord with written notice of the identity of and contact information regarding any and all Financing parties.

SECTION 17
NOTICE

17.1 **Notice.** All notices, communications, and transmittals required or permitted to be given hereunder shall be in writing, delivered by e-mail, U.S. certified mail prepaid, or by express mail service, return receipt requested, addressed to the mailing or e-mail addresses given herein and shall be effective upon the date on the return, or of delivery of the e-mail. The parties shall be responsible for notifying each other of any change of postal address or e-mail address. This Agreement and any notices hereunder may be executed and delivered by the methods set forth above, with electronic copies being deemed originals. Notices shall be directed as follows:

To Landlord:

WWIDA
5 Warren Street, Suite 201
Glens Falls, New York 12801
Telephone: 518-792-1312
E-mail: aweaver@warrenwashingtonida.com

with a copy to:
FitzGerald Morris Baker Firth PC
Attn.: Kara I. Lais, Esq.
68 Warren Street
Glens Falls, New York 12801
Telephone: 518-745-1400
E-mail: kil@fmbf-law.com

To Tenant:

CHPE LLC
Pieter Schuyler Building
600 Broadway
Albany, NY 12207
Telephone: (518) 465-0710
E-mail:

bill.helmer@transmissiondevelopers.com
with copy to:
Phillips Lytle, LLP
One Canalside
125 Main Street
Buffalo, New York 14203
Attention: David P. Flynn, Esq.

Telephone: (716) 847-5473
E-mail: dflynn@phillipslytle.com

Tenant shall give Tenant notice of the identity and contact information for any and all Financing Parties as soon as the same are confirmed in the context of a Project financing.

SECTION 18 **MISCELLANEOUS PROVISIONS**

18.1 Confidentiality. Except as otherwise required by law, Landlord will maintain in strict confidence, for the sole benefit of Tenant, the existence and the terms of the Agreement and the transactions contemplated herein; provided, however that Landlord may disclose this Agreement to Landlord's affiliates, subsidiaries, attorneys, consultants, or other agents or professional advisors, as required by law, or with Tenant's permission.

18.2 Counterparts. This Agreement may be executed in counterparts. All executed counterparts shall constitute one agreement and each counterpart shall be deemed an original. The parties hereby agree signatures transmitted by facsimile or email shall be legal and binding and shall have the same full force and effect as if an original of this Agreement had been delivered and hereby waive any defenses to the enforcement of the terms of this Agreement based on the foregoing forms of signature.

18.3 Time Periods. If any date for exercise of any right, giving of any notice, or performance of any provision of this Agreement falls on a Saturday, Sunday, or holiday, the time for performance will be extended to the next business day.

18.4 No Waiver. The failure of either party to require strict performance by the other party of any provision of this Agreement will not be considered a waiver of any other provision, nor shall it prevent any party from enforcing that or any other performance at any time thereafter.

18.5. Further Assurances. The parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to carry out the intent and purposes of this Agreement.

18.6. Governing Law. This Agreement is made pursuant to and shall be construed and enforced in accordance with the laws of the state of New York.

18.7. Amendments; Entire Agreement. This Agreement contains the entire agreement between the parties and there are no other promises or conditions in any other agreement whether oral or written pertaining to the subject matter hereof. All prior and contemporaneous agreements, understandings, negotiations, or representations, whether oral or in writing, relating to the subject matter of this agreement are superseded or cancelled. Any agreement hereafter made shall be ineffective to change, modify, or discharge this Agreement, in whole or in part, unless such agreement is in writing and signed by the parties.

18.8 Severability. If any term or provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable.

18.9 **Quiet Enjoyment.** Landlord covenants and agrees that upon Tenant paying the Rent and Additional Rent, and performing all the covenants and conditions aforesaid on the Tenant's part to be observed and performed hereunder, Tenant shall and may peaceably and quietly have, hold and enjoy the Demised Premises for the term aforesaid, subject, however, to the terms of this Lease.

18.10 **Marginal Headings.** The marginal headings are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of this Lease or in any way affect this Lease.

18.11 **Memorandum.** Tenant may record a memorandum of this Agreement in the Office of the Clerk of Washington County. A Memorandum of Option and Lease Agreement is attached hereto as **Exhibit C** and incorporated herein by reference.

18.12 **Compliance with Public Authorities Law.** This Agreement is subject to any or all notice provisions as set forth in NY Public Authorities Law, including but not limited to Section 2897 of the Public Authorities Law and any policies of the Landlord.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed and entered into this Lease
as of the day and year first above written.

Counties of Warren and Washington
Industrial Development Agency,
Landlord

By: _____
Name: David O'Brien
Its: Chairman

CHPE LLC,
Tenant

By: _____
Name: William S. Helmer
Its: Executive Vice President

Exhibit C
Memorandum of Option and Lease Agreement

MEMORANDUM OF OPTION AND LEASE AGREEMENT

THIS MEMORANDUM OF OPTION AND LEASE AGREEMENT ("**Memorandum**") is made and effective as of _____, 2022 ("**Effective Date**") and is by and between **Counties of Warren and Washington Industrial Development Agency**, a public benefit corporation organized under the laws of the State of New York having an address of 5 Warren Street, Glens Falls, New York 12801 ("**Landlord**") and CHPE LLC, a limited liability company organized and existing pursuant to New York State law and having an address of Pieter Schuyler Building, 600 Broadway, Albany, New York, 12207 ("**Tenant**" and collectively with Landlord "**Parties**").

1. Landlord owns in fee simple certain real property located at 470 Lock 8 Way in the Town of Fort Edward, County of Washington, State of New York and described in the deed recorded in the Washington County Clerk's Office as Instrument # 2022-1101 and known as Tax Map ID No. 163.-2-20.1 on the Washington County Tax Map. A legal description of the Property is attached hereto as **Exhibit A** and incorporated herein by reference.
2. Pursuant to that certain Option and Lease Agreement, dated as of _____, 2022 (the "**Agreement**"), Landlord has granted to Tenant and Tenant has accepted from Landlord, the exclusive option to lease ("**Option**") a portion of the Property ("**Premises**"), which Tenant may use as a laydown yard for construction support services. A sketch of the Premises is attached hereto as **Exhibit B** and incorporated herein by reference.
3. The parties are executing and recording this Memorandum so that third parties shall have notice of the Option, and of the rights and obligations of the Parties under the Agreement.
4. The Agreement provides for an Option Period of up to six (6) months commencing upon _____ and subject to further extension by the parties.
5. Copies of the Agreement are maintained by the Parties.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed and entered into this Lease as of the day and year first above written.

Counties of Warren and Washington
Industrial Development Agency,
Landlord

By: _____
Name: David O'Brien
Its: Chairman

CHPE LLC,
Tenant

By: _____
Name: William S. Helmer
Its: Executive Vice President

STATE OF NEW YORK)
)
COUNTY OF _____) SS.:

On the ___ day of _____ in the year 202_, before me, the undersigned, a Notary Public in and for said State, personally appeared David O'Brien 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 he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument, and that such individual made such appearance before the undersigned.

Notary Public

STATE OF NEW YORK)
)
COUNTY OF _____) SS.:

On the ___ day of _____ in the year 202_, before me, the undersigned, a Notary Public in and for said State, personally appeared William S. Helmer 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 he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument, and that such individual made such appearance before the undersigned.