

# FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

TUESDAY  
NOVEMBER 10, 2020  
8:00 A.M.

PLANNING DEPARTMENT CONFERENCE ROOM

## MEETING NOTES

PRESENT ON CONFERENCE CALL:

DAVE D'AMORE, CHAIRMAN  
JOE SEMIONE, VICE CHAIRMAN  
TODD RULISON, TREASURER  
JANE KELLEY, SECRETARY  
TIM MUNN, MEMBER  
MIKE FITZGERALD, MEMBER  
JAMES MRAZ, EXECUTIVE DIRECTOR  
KARA LAIS, FITZGERALD, MORRIS, BAKER, FIRTH PC  
SCOTT HENZE, PLANNING DIRECTOR  
GEOFF PECK, FULTON COUNTY CENTER FOR REGIONAL GROWTH  
JOHN BLACKMON, LIAISON, ECONOMIC DEVELOPMENT AND ENVIRONMENT  
COMMITTEE

### I. ROLL CALL:

	Aye	Nay	Abstain	Absent
Dave D'Amore	X	—	—	—
Joe Semione	X	—	—	—
Todd Rulison	X	—	—	—
Jane Kelley	X	—	—	—
Mike Fitzgerald	X	—	—	—
Joseph Gillis	—	—	—	X
Tim Munn	X	—	—	—

(Tom Casey entered the waiting room at 9:43 a.m. and left at 9:50 a.m.)

### II. MINUTES FROM OCTOBER 13, 2020 MEETING:

MOTION : Accept as presented.  
MADE BY : Joe Semione  
SECONDED : Jane Kelley

ROLL CALL VOTE :

	Aye	Nay	Abstain	Absent
Dave D'Amore	X	—	—	—
Joe Semione	X	—	—	—
Todd Rulison	X	—	—	—
Jane Kelley	X	—	—	—
Mike Fitzgerald	X	—	—	—
Joseph Gillis	—	—	—	X
Tim Munn	X	—	—	—

NOTE: A transcript of the October 13, 2020 meeting has been prepared and posted on the IDA's website in compliance with Governor Cuomo's Executive Order suspending the Open Meetings Law.

**III. BUDGET REPORT:**

MOTION : Accept as presented.

MADE BY : Joe Semione

SECONDED : Jane Kelley

ROLL CALL VOTE :

	Aye	Nay	Abstain	Absent
Dave D'Amore	X	—	—	—
Joe Semione	X	—	—	—
Todd Rulison	X	—	—	—
Jane Kelley	X	—	—	—
Mike Fitzgerald	X	—	—	—
Joseph Gillis	—	—	—	X
Tim Munn	X	—	—	—

**IV. COMMITTEE REPORTS:**

A. Nominating Committee:

- No report.

B. Audit Committee:

- Monthly Bank Reconciliation Reports: Mike Fitzgerald

IDA DISCUSSION: Mike Fitzgerald approved the Monthly Bank Reconciliation Reports.

C. Governance Committee:

- No report.

D. Finance Committee:

- No report.

**V. FULTON COUNTY/FULTON COUNTY CENTER FOR REGIONAL GROWTH (FCCRG) REPORTS:**

1. Fulton County Report: John Blackmon, Liaison
2. FCCRG Report: (See attached.) Geoff Peck

IDA DISCUSSION: John Blackmon stated that this month's Board of Supervisors' meeting has been postponed one (1) week because several Supervisors were exposed to COVID. He stated that there are two (2) additional retail stores in Johnstown that are closing: Johnstown Restaurant and Dave's Photo Shop. John Blackmon reported that the Board of Supervisors has removed several people from various Committees due to their not filing Financial Disclosure Statements. John Blackmon also referenced a 20 megawatt Solar Project that's being proposed in Perth. He stated projects of this size are not subject to review by local Planning Boards.

Geoff Peck stated that the CRG is working on a project in the Johnstown Industrial Park. He stated the CRG's magazine should be coming out shortly. The CRG will have a grand opening for it. Geoff Peck stated that the CRG continues to market Tryon through its website and answering inquiries. Joe Semione asked if the IDA could receive the email blast that goes out regarding Tryon? Geoff Peck stated that he would provide that email to the IDA. Geoff Peck stated that the CRG has yet to receive any direct calls or leads regarding Tryon from these email blasts.

**VI. OLD BUSINESS:**

**A. IDA Website:**

**1. Background:**

- At its November 12, 2019 meeting, IDA Board hired Emery Designs to update IDA's website.
- At its January 14, 2020 meeting, the IDA Board agreed to consolidate the information on the Tryon Technology Park website ([tryontechnologypark.com](http://tryontechnologypark.com)) into the IDA's website ([fcida.org](http://fcida.org)) but retain the domain name Tryon Technology Park.

**2. Status Report:**

- In response to the COVID Pandemic, Emery Designs is working on adding narrative/graphics to the Home page emphasizing that Fulton County is a safe, healthy place to live/do business.
- Drafted flow chart of Fulton County's Economic Development Program and summary of everyone's roles to put on website.
- On September 25, 2020, emailed draft to Board of Supervisors, FCCRG and Fulton Montgomery Regional Chamber of Commerce for review and comments.
- To date, no comments have been received.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He stated that he is still working with Betsy Emery on the graphics for the flowchart.

**B. Cushman Wakefield:**

- Cushman Wakefield has listed Tryon's shovel-ready land and the two (2) buildings onto their website as follows:
  - The land is listed at \$27,500 per acre.
  - The 15,000+/- sf Building 60/the former Maintenance Shop is listed at \$150,000.
  - The 15,000+/- sf portion of Building 3 referred to as the Midas Building is listed at \$350,000.
- Cushman Wakefield has shown these buildings to several interested parties.
- Interested parties having difficulties getting information from National Grid on potential electric and gas connection costs.

**C. Lands on South Side of CR107:**

1. Background:

- IDA Board retained Coldwell Banker Arlene M. Sitterly to market the 27+/- acre parcel of land on the south side of CR107.
- The IDA Board received four (4) formal offers to purchase the property. One of the offers was subsequently withdrawn.

2. May 12, 2020 IDA Board Meeting:

- At its May 12, 2020 meeting, the IDA Board unanimously agreed to accept the offer from Squires/McCashion.

3. June 9, 2020 IDA Board Meeting:

- On May 22, 2020, Dave Huckans/Dr. Shri Verma/Baljit Verma submitted a revised offer to the IDA. Revised offer increased purchase price from \$30,000 to \$90,000 with no contingencies.
- On June 8, 2020, Clayt Sitterly emailed the IDA advising that his clients, Squires/McCashion, had decided to not pursue its project and was therefore withdrawing its offer to purchase the 27+/- acres on the south side of CR107.
- At its June 9, 2020 meeting, the IDA Board agreed to meet with Mr. Huckans and Dr. Verma to discuss their revised proposal.

4. July 14, 2020 Meeting:

- On June 12, 2020, IDA representatives met with Dave Huckans, Dr. Verma and Baljit Verma to discuss their revised offer.
- Their plan for the property includes the following:
  - Create a business to manufacture and distribute probiotics.
  - Promote organic farming and use the site as a hub for selling organic farm-to-table products.
  - Relocate an existing business to the site.
- On June 15, 2020, a request was made to Dave Huckans and Dr. Verma to prepare and submit to the IDA a more detailed business plan.
- On June 15, 2020, several questions were asked of the IDA about the property. Responses were provided on June 16, 2020.
- National Grid came to the site on June 23, 2020 to mark the location of their gas mains.

- On June 24, 2020, Dave Huckans called to ask that the utility rooms to the existing buildings be opened so he and Gloversville Water Department could see where water lines entered each building. Those utility rooms were opened the same day.
- On July 7, 2020, Dave Huckans submitted a revised business plan summarizing how they intend to develop the site. Revised plan was submitted and reviewed at July 14, 2020 meeting.
- At July 14, 2020 meeting, IDA Board authorized its Chairman to execute a Purchase Contract for the sale of these 27+/- acres to Huckans/Verma.

5. August 11, 2020 Meeting:

- Purchase Contract has yet to be signed by Verma/Huckans.
- Responded to series of questions submitted by Dave Huckans.
- Conducted conference call on August 3, 2020 with Dave Huckans and Paul Kolodziej, his attorney.
- Mr. Huckans is seeking additional information on three (3) items:
  1. Estimated IDA legal fees that Mr. Huckans will be responsible for paying.
  2. Verification that the Town of Perth or Fulton County will take over ownership of access driveway.
  3. Verification that this parcel will be included in proposed Fulton County Sewer District No. 4.
- Mr. Huckans advised that these issues need to be addressed in order for them to execute the Purchase Contract.
- IDA Board agreed to ask Verma/Huckans to submit a signed Purchase Contract to the IDA by August 18, 2020.

6. September 8, 2020 Meeting:

- Executed Purchase Contract was received on August 18, 2020.
- Chairman D'Amore executed the Purchase Contract and it was returned on August 21, 2020.
- Deposit check has been received and is being held by Coldwell Banker.
- Purchase Contract included three (3) conditions:
  1. Estimated IDA legal fees that Mr. Huckans will be responsible for paying.
  2. Verification that this parcel will be included in proposed Fulton County Sewer District No. 4.
  3. Verification that the Town of Perth or Fulton County will take over ownership of access driveway.
- Item #1 has been addressed. Kara Lais sent an estimate to Paul Kolodziej, the Purchaser's attorney.
- Item #2 has been addressed. On August 18, 2020, Jim Mraz e-mailed Dave Huckans a map showing that the parcel was included in proposed Fulton County Sewer District No. 4.
- Item #3 still needs to be addressed by the Buyers prior to closing.
- Purchase Contract stipulates that the closing shall be on or before September 30, 2020.
- Purchase Contract says the attorneys for Seller and Buyer had to agree to all matters by September 1, 2020. On September 1, 2020, Kara Lais sent e-mail to Paul Kolodziej, the Buyer's Attorney, identifying several modifications to Purchase Contract.
- Purchase Contract says the Seller shall cooperate in providing any survey to the Purchaser and that the Purchaser shall pay for the cost of updating any such survey or the cost of a new survey. On September 2, 2020, Jim Mraz sent Dave Huckans a copy of the Boundary Survey Map Ferguson & Foss prepared when the IDA took title to

property from New York State showing the parcel on the south side of CR107 as well as a written description.

- Dave Huckans met with David Dopp, Town of Perth Highway Superintendent, to discuss having Town take over road.
- David Dopp said owner of road must request Town take over.
- As current owner, IDA must submit request to Town of Perth.
- IDA Board authorized having Chairman send a letter to the Town of Perth asking that they take over ownership of road contingent upon Tryon Organics Enterprises confirming that they would pay to upgrade road.

7. October 13, 2020 Meeting:

- Dave Huckans confirmed that Tryon Organics Enterprises would pay to upgrade road to Town specifications.
- On September 10, 2020, the letter to the Town of Perth from Chairman D'Amore was sent to the Town of Perth.
- Tryon Organics Enterprises requested that the closing date in the Purchase Contract be extended to November 30, 2020.
- On October 8, 2020, the Perth Town Board met and agreed to take over the road once it was improved to Town's specifications.
- IDA Board approved a Resolution authorizing the sale of the 27+/- acre parcel to Tryon Organics Enterprises.
- IDA Board approved testing of sewer main servicing this parcel.
- IDA Board approved extending closing date to November 30, 2020.

8. Update:

- On October 14, 2020, emailed to Dave Huckans the certified Resolution authorizing the sale of the 27+/- acre parcel to Tryon Organics Enterprises.
- On October 26, 2020, emailed Dave Huckans asking if Tryon Organics Enterprises was going to now close on the property given that the Town of Perth Town Board had agreed to take over ownership and maintenance of the road once it was upgraded to the Town's specifications.
- Ferguson & Foss completed a new survey of the parcel.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He stated that this transaction is moving towards closing. He asked Kara Lais for an update on the status of the closing. She stated that she sent to the Buyer title information. She stated the documents are ready to close.

**D. Sewer Line Serving Parcel on South Side of CR107:**

1. Background:

- At the October 13, 2020 meeting, the IDA Board authorized an expenditure of up to \$6,000 to test the sewer main servicing the 27-acre parcel on the south side of CR107.
- CFI Construction was retained to perform this work.

2. Findings:

- CFI spent two (2) full days at the site.
- It took 1½ days to locate where the sewer main and manholes were actually located.
- Several manholes were buried and not visible.
- CFI had to bring in a trackhoe to scrape soil to locate these manholes.
- The location of the sewer main has now been verified.
- The test on the force main portion of the sewer main was inconclusive.
- The test on the gravity main portion of the sewer main would not hold pressure indicating a break somewhere in the main. The extent or location of the break is not known.
- Total Cost: \$5,975

3. Next Step:

a. Video Camera:

- There is approximately 1,300 linear feet of gravity sewer main.
- There are two (2) sections of gravity sewer main that run through woods.
- One section is approximately 440' +/- long. The other is 240' +/-.
- These two (2) sections have the potential to have roots growing into/through the sewer pipe which may be the reason why this sewer line did not hold air pressure.
- An option to verify if this is the case is to run a camera through the sewer pipe to verify if the pipe has roots or is broken and to determine where the problem exists.
- Adirondack Septic has submitted a scope of work:

- Powerjet

- US Jetting 4018 – 4000 PSI/18GPM
- Potentially needed to mitigate root intrusion or debris accumulation in sanitary sewer to assist video inspection process

- Video Inspection

- Cues C550c camera crawler system
- Pan/tilt/zoom camera body
- Observation logging
- Structure and pipeline inspection
- Inspection report furnished upon completion

- Adirondack Septic's quote to perform this work:

• Powerjet	:	\$1,510/day
• <u>Video Inspection</u>	:	<u>\$1,960/day</u>
• <b>Total</b>	:	<b>\$3,470/day</b>

- Adirondack estimates it can complete 300-500'/day.
- Three (3) options:
  - 1) Do nothing.
  - 2) Power Jet/Video Inspect all 1,300' of gravity sewer main.
  - 3) Power Jet/Video Inspect the two (2) sections that run through the woods: 680'

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He stated that Tryon Organics Enterprises' offer to purchase this parcel said the property should be connected to municipal sewer. He stated that in order for the IDA to complete this sale, the sewer line will have to be made operational. Joe Semione stated that, similar to house inspections that are done when a house is being sold, things come up that have to be addressed before a sale can be completed. He stated he is concerned about the unknowns with this sewer line. He stated that the IDA has already spent \$6,000 and may have to spend another \$15,000 just to find out what, if any, problems are with this line. This does not include the cost of repair. He stated the IDA could be spending \$30,000 or more and he felt that would be too much. Dave D'Amore asked if the IDA has received any further inquiries from interested parties. Jim Mraz stated that Coldwell Banker did receive inquiries but the property was not shown since the property was under contract. Dave D'Amore stated that the initial party that was interested in this property also wanted to have it connected to this sewer line. He stated that the IDA should continue with an evaluation of the entire section of the gravity sewer line to determine if there are small or large problems associated with it. He stated that even if the IDA spends all this money to find what problems are and fixes the problems he still thinks it would generate a net revenue to the IDA and not a net expense. Tim Munn asked if the Buyer can back out of the Purchase Contract? Kara Lais stated there is always a possibility that a potential buyer backs out of the Purchase Contract. After further discussion, it was agreed to authorize spending up to \$17,000 to test the entire gravity sewer line, but to focus initially on the two (2) sections of gravity sewer line that run through the woods. It was agreed that these two (2) sections have the greatest potential to have a break or blockage in this sewer main. These blockages and breaks can occur from either rocks or roots. Since these two (2) sections run through the woods, they have the greatest potential to have roots causing problems. It was further agreed that to start with those two (2) sections and have Jim Mraz email all IDA members with what the findings are. The IDA Board could then decide whether to proceed with additional work or to stop work at that time.

#### IDA ACTION:

MOTION: To authorize an expenditure of up to \$17,000 to video inspect/power jet the gravity sewer section of this sewer line but to initially focus on the two (2) sections of gravity main that run through the woods.

MADE BY: Dave D'Amore  
 SECONDED: Mike Fitzgerald

#### ROLL CALL VOTE :

	Aye	Nay	Abstain	Absent
Dave D'Amore	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>
Joe Semione	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>
Todd Rulison	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>
Jane Kelley	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>
Mike Fitzgerald	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>
Joseph Gillis	<u>    </u>	<u>    </u>	<u>    </u>	<u>X</u>
Tim Munn	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>



## **E. Plugged Sewer Line at Tryon:**

### **1. Background:**

- In June 2020, a plugged sewer was discovered at Tryon.
- Adirondack Septic was hired and rerouted sewer flow around the plugged line.
- This work was completed.
- However, the plugged main needs to be repaired.

### **2. Request for Quotes (RFQ):**

- An RFQ was prepared to replace the plugged sewer main.
- The RFQ was sent to seven (7) local contractors.
- Four (4) quotes were received:

<b>Contractor</b>	<b>Base Bid<sup>1</sup></b>	<b>Alt. Bid 1<sup>2</sup></b>	<b>Alt. Bid 2<sup>3</sup></b>
Pareene Contracting, Inc.	\$ 3,020.00	\$ 4,346.00	\$ 5,523.52
Stephen Miller General Contractors	\$10,500.00	\$11,000.00	\$11,500.00
Jablonski Excavating, Inc. <sup>4</sup>	\$14,000.00	\$21,000.00	\$ 8,000.00
CFI Construction, Inc.	\$15,000.00	\$16,000.00	\$10,000.00

<sup>1</sup>Base Bid : Cut out and replace plugged section of sewer main.

<sup>2</sup>Alt. Bid 1 : Replace entire section of sewer main between 2 manholes.

<sup>3</sup>Alt. Bid 2 : Rehabilitate two (2) sewer plug valves.

<sup>4</sup>Alt. Bid 3 : Jablonski Excavating provided an additional quote if need to replace valves @ \$4,000/valve.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. Dave D'Amore questioned whether the low bidder can perform this work given the significant differences in their pricing. Jim Mraz stated that the company was recommended by Adirondack Septic. He stated that he has spoken with the owner who advised that he is ready to perform the work. Jim Mraz asked what work the Board was willing to have performed? Dave D'Amore stated that given the discounted pricing from the low bidder, he recommended that both the sewer line be replaced and the valves replaced. Mike Fitzgerald stated that he agreed.

### **IDA ACTION:**

**MOTION:** To award Alternate Bids 1 and 2 to Pareene Contracting, Inc. at a total cost of \$9,869.52.

**MADE BY:** Todd Rulison

**SECONDED:** Joe Semione

**ROLL CALL VOTE :**

	<b>Aye</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>
Dave D'Amore	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>
Joe Semione	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>
Todd Rulison	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>
Jane Kelley	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>
Mike Fitzgerald	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>
Joseph Gillis	<u>    </u>	<u>    </u>	<u>    </u>	<u>X</u>
Tim Munn	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>

## **F. Proposed Nexus Renewables Solar Project:**

### **1. Lease Agreement:**

- An issue was raised whether there should be one (1) Lease Agreement with Nexus Renewables or four (4) separate Leases with the four (4) LLC's that will be operating the four (4) solar projects on the property the IDA is leasing to the four (4) LLC's.
- The Attorneys decided that it would be best if the IDA executed a Lease with each of the four (4) LLC's.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. Kara Lais stated that certain pages may need to be notarized because Nexus wants to file documents in the County Clerk's Office. Jim Mraz asked Kara Lais to send him any pages that need to be signed by Dave D'Amore and notarized. He will coordinate getting a notary to witness Dave's signature.

IDA ACTION:

MOTION: To authorize the Chairman to execute leases with the four (4) LLC's that will own and operate the four (4) solar projects.

MADE BY: Jane Kelley

SECONDED: Tim Munn

ROLL CALL VOTE:

	Aye	Nay	Abstain	Absent
Dave D'Amore	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Joe Semione	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Todd Rulison	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Jane Kelley	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Mike Fitzgerald	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Joseph Gillis	<u>      </u>	<u>      </u>	<u>      </u>	<u>X</u>
Tim Munn	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>

### **2. Sales Tax Exemptions:**

- The sales tax exemptions shall be available from November 10, 2020 to July 31, 2022.
- The four (4) LLC's that will be operating the four (4) separate solar projects will each be required to file an ST-340 Form with the NYS Department of Taxation and Finance by the end of February 2021 and 2020 documenting the amount of sales tax exemptions each LLC actually claimed.

IDA DISCUSSION: Kara Lais stated that Nexus wants to close on the Sales Tax Exemptions by the end of this year. She is working with their attorneys on preparing the documents.

## **G. Proposed Benjamin Moore Expansion Project:**

### **1. Background:**

- Benjamin Moore Company currently operates a latex paint manufacturing facility on the north side of Union Avenue Extension in the City of Johnstown.
- Benjamin Moore currently employs approximately 133 workers.
- In 2018, Benjamin Moore submitted a Project Application for a major expansion project at its Johnstown facility. However, that project did not move forward.

### **2. Proposed Expansion Project:**

- Benjamin Moore is again proposing a major expansion of its Johnstown facility.
- Benjamin Moore is proposing to construct an approximately 120,000 sq. ft. addition to its existing facility.
- The total project cost would be approximately \$17,750,000+/- million.

### **3. Project Application:**

- Benjamin Moore has filed a Project Application with the IDA requesting financial incentives.
- The Application Fee has been received.

### **4. Project Structure:**

- The IDA will enter into a Lease and Leaseback arrangement with Benjamin Moore. This structure will provide an interest in the project that will allow the IDA to provide financial incentives to the proposed addition.

### **5. Project Number:**

- The project has been assigned the following Project Number: 1701-20-01-A

### **6. Site Plan:**

- The City Planning Board is reviewing Benjamin Moore's Site Plan.
- A Public Hearing on the Site Plan was held on November 3, 2020.
- No one attended.
- The Planning Board is scheduled to meet on November 10, 2020 at 4:00 p.m. to approve the Site Plan.

### **7. SEQR:**

#### **A. Background:**

- On October 6, 2020, the City of Johnstown Planning Board initiated its own SEQR review.
- The Part I EAF filed with the Planning Board did not include the IDA and ESD as potential Involved Agencies.
- As a result, the Planning Board did not include the IDA and ESD in its SEQR review.
- The IDA, therefore, had to conduct its own SEQR review.

- NYSDEC recommended that the City Planning Board consent to the IDA serving as Lead Agency since the IDA's Coordinated Review included all Involved Agencies.
- At its November 7, 2020 meeting, the Planning Board terminated its SEQR review and consented to the IDA serving as SEQR Lead Agency.

B. Lead Agency:

- Benjamin Moore (BM) submitted a Full Part I Environmental Assessment Form (EAF) to the IDA.
- The EAF identified the following potential Involved Agencies:
  - IDA
  - City of Johnstown Planning Board
  - NYS Department of Environmental Conservation
  - Empire State Development
- At its October 13, 2020 meeting, the IDA Board classified the proposed project as a Type I action, proposed that it serve as the Lead Agency for a coordinated SEQR review and authorized the distribution of the EAF to all Involved Agencies asking for their consent to their consent to the IDA serving as Lead Agency
- Involved Agencies were given until 5:00 PM, Friday, November 6, 2020 to respond
- Responses were received from the following Involved Agencies consenting to the IDA serving as Lead Agency:
  - Benjamin Moore
  - City of Johnstown Planning Board
  - NYSDEC

IDA DISCUSSION: Prior to any discussion taking place, Joe Semione advised that he has a conflict of interest in that his firm does work for Benjamin Moore. As a result, he stated he would recuse himself from both discussing and voting on the proposed Benjamin Moore Project.

Jim Mraz reviewed the information on the Agenda regarding designating Lead Agency. He asked if there were any questions. There were none.

IDA ACTION:

MOTION: To designate the IDA to serve as the Lead Agency in a Coordinated SEQR Review on the proposed Benjamin Moore Expansion Project.

MADE BY: Mike Fitzgerald

SECONDED: Todd Rulison

ROLL CALL VOTE :

	Aye	Nay	Abstain	Absent
Dave D'Amore	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Joe Semione	<u>      </u>	<u>      </u>	<u>X</u>	<u>      </u>
Todd Rulison	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Jane Kelley	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Mike Fitzgerald	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Joseph Gillis	<u>      </u>	<u>      </u>	<u>      </u>	<u>X</u>
Tim Munn	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>

C. Part 2 EAF

- The IDA has completed a Part 2 EAF.
- See Attached
- Review Part 2 EAF

IDA DISCUSSION: Jim Mraz reviewed the entire EAF Part 2 with the Board. After completing its review of the Part 2 EAF, Jim Mraz asked if there were any questions. There were none.

D. Determination of Significance

- Based upon its review of the Part 1 and 2 EAF and all project information, the IDA Board now needs to issue a Determination of Significance under SEQR.
- Two options exist:
  1. Positive Declaration: If the IDA Board determines that the proposed project may create 1 or more significant environmental impacts, it must issue a Positive Declaration which means a Draft Environmental Impact Statement (DEIS) must be prepared
  2. Negative Declaration: If the IDA Board determines that the proposed project will not create any significant environmental impacts, it must issue a Negative Declaration which means a Draft Environmental Impact Statement (DEIS) does not have to be prepared and the SEQR process has been completed

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He asked if there were any questions regarding the options available to the IDA Board. There were none.

IDA ACTION:

MOTION: To issue a Negative Declaration on the proposed Benjamin Moore Expansion Project and to authorize the filing of said Negative Declaration in accordance with the SEQR Regulations.

MADE BY: Todd Rulison  
SECONDED: Dave D'Amore  
ROLL CALL VOTE :

	Aye	Nay	Abstain	Absent
Dave D'Amore	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>
Joe Semione	<u>    </u>	<u>    </u>	<u>X</u>	<u>    </u>
Todd Rulison	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>
Jane Kelley	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>
Mike Fitzgerald	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>
Joseph Gillis	<u>    </u>	<u>    </u>	<u>    </u>	<u>X</u>
Tim Munn	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>

8. IDA Benefits Requested:

- Benjamin Moore's Project Application requests two (2) IDA financial benefits:
  1. Real Property Tax Exemption
  2. Sales Tax Exemptions

- The estimated values of each benefit are:
  - Real Property Tax Exemption : \$190,000+/-
  - Sales Tax Exemption : \$720,000+/-
- The Real Property Tax Exemption would only apply to the increase in the building's assessed valuation created by this expansion.
- The Sales Tax Exemptions will be available to Benjamin Moore from November 10, 2020 to June 30, 2023.

9. Public Hearing:

- Since Benjamin Moore's Project Application requested IDA benefits greater than \$100,000, a public hearing must be held.
- A Public Hearing was held on Tuesday, October 27, 2020, 10:00 a.m., in the Office of the Fulton County Industrial Development Agency.
- No one spoke at the Public Hearing.

10. Evaluation of Project Application:

a. Background:

- In response to new IDA reform legislation, the IDA Board approved, in May 2016, the utilization of a new Project Application.
- This Project Application contained a new Section 8: Project Review Criteria and Annual Monitoring.

b. Section 8:

- 1) The Agency shall review Project Applications and utilize the following specific criteria for evaluating and determining whether to provide benefits to a proposed project:
  - A. Will the project create or retain jobs?
  - B. What are the wages to be paid for the new jobs being created and the existing jobs being retained?
  - C. What is the total private sector investment?
  - D. How much local labor will be utilized during construction?
  - E. How much will property values and property tax revenues increase for local taxing jurisdictions?
- 2) The Agency shall require the Applicant to annually submit information to the Agency to allow the Agency to monitor the performance of the Applicant. The Agency shall annually monitor, at a minimum, the following information:
  - A. Number of new jobs created and retained.
  - B. Private sector investment.

c. Review of Benjamin Moore's Project Application:

- 1) Will project create or maintain jobs?
  - New Jobs : 10
  - Maintain Jobs : 133
- 2) What are the wages to be paid for the new jobs created?

Category of Jobs to be Retained and Created	Average Annual Salary Hourly Rate for New Job Created	Average Salary or Range of Salary for Jobs Retained
Production	\$46,000	\$ 46,000

- 3) What is total private sector investment?
  - \$17,750,000+/-
- 4) How much local labor will be utilized during construction?
  - Total : 60 construction jobs
  - Fulton County : 20 construction jobs
- 5) How much will property values and property taxes increase for local taxing jurisdictions?
  - Existing building is assessed for \$2,899,000. Once the expansion is completed, the building's assessed valuation will increase. Exact amount of increase will be determined by the City of Johnstown Assessor once addition is completed. The increased assessed valuation will increase property tax revenues for local taxing jurisdictions.

11. Resolution:

- Kara Lais has drafted a Resolution to approve granting the requested financial benefits for the proposed Benjamin Moore Expansion Project.
- See attached.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. The IDA Board reviewed the evaluation of the Project Application in Item 10 on the Agenda. It was the consensus of all present that the benefits this proposed project would provide justify granting financial incentives to it. Jim Mraz then reviewed the Resolution that was attached to the Agenda. He asked Kara Lais if she had any comments? She stated that the Resolution is straight forward and is the same as that ones used on previous projects. She stated she is coordinating with Counsel on closing. She stated Benjamin Moore wants to close on these incentives as soon as possible.

IDA ACTION:

MOTION: To adopt a Resolution approving a certain project, appointing Benjamin Moore Company as the Agent of the IDA for the purpose of constructing and equipping the Project Facility and authorizing the execution and delivery of closing documents.

MADE BY: Jane Kelley

SECONDED: Mike Fitzgerald

ROLL CALL VOTE :

	Aye	Nay	Abstain	Absent
Dave D'Amore	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Joe Semione	<u>      </u>	<u>      </u>	<u>X</u>	<u>      </u>
Todd Rulison	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Jane Kelley	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Mike Fitzgerald	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Joseph Gillis	<u>      </u>	<u>      </u>	<u>      </u>	<u>X</u>
Tim Munn	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>

## **H. Transformers at Tryon Technology Park:**

### **1. Background:**

- The IDA owns the following transformers that were a part of the old electric system the IDA previously owned and operated:
  - 14 pole mounted
  - 9 ground mounted
- At the June 2020 meeting, the IDA Board authorized the sale of all transformers no longer needed at Tryon.
- Chris Stankes, Planner, has been working with Northeast Transformer Services (NTS) located in Peeble, NY, a company that purchases used transformers.
- NTS was willing to purchase 17 of these 23 transformers.
- Before NTS would commit to buying the other six (6) pole mounted transformers, it wanted to have them tested for PCB's.
- At the October 13, 2020 meeting, the IDA Board approved having these six (6) transformers tested for PCB's at a cost to not exceed \$250.
- The samples were taken and mailed to the lab on October 20, 2020.
- The tests showed no PCB's.
- Total cost for testing was \$150.
- NTS has picked up all 22 transformers. Once they verify the KVA of all transformers, a payment will be issued.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He stated this transaction will result in the generation of a small revenue of approximately \$2,000 to the IDA. More importantly, it will allow the Board to avoid incurring the expense that would have been occurred if the IDA had to dispose of these transformers. He asked if there were any questions. There were none.

## **I. Vandalism at Tryon Technology Park:**

### **1. Background:**

- Valdals recently damaged windows and doors in Building 3 at Tryon. Many exterior windows with broken and jagged pieces of glass creating a significant health and safety issue.
- Graffiti was painted on walls and floors.
- The Sheriff's Department is conducting an investigation.

### **2. Insurance:**

- Bill Vangorder, NBT-Mang Insurance has been notified of the vandalism and costs for emergency repairs.
- Incident Report filed with NBT Mang Insurance.
- Spoke with Stephanie Frazier, Executive Claims Associate, to provide details about vandalism and the emergency repair work performed. Stephanie advised that making the emergency repair work was the correct thing to do.



- On October 7, 2020, met with Bill VanGorder at Building 3 to review damage and repair work.
- On October 8, 2020, spoke with Will Schroeder, Claims Examiner, regarding Incident Report.
- On October 9, 2020, emailed copies of proposal, invoice and check to Will Schroeder.
- On October 22, 2020, met with Robert Marks, Marks Adjustments, Inc., to inspect damage and take photos.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He stated he just wanted to make IDA members aware that everything is being done possible to try to get an insurance reimbursement of the cost the IDA incurred for these emergency repairs. Joe Semione asked if the IDA should be getting an estimate for permanent repairs to the damage to windows and doors? Jim Mraz recommended waiting until verification that NYMIR will reimburse the IDA for the emergency repairs. The IDA Board can then, at that time, decide whether it wants to proceed with making the permanent repairs or not.

## **VII. NEW BUSINESS:**

### **A. Old Electrical System at Tryon Technology Park:**

#### **1. Background:**

- Now that National Grid has installed its new primary electric service, old electrical lines and poles need to be removed.
- Soil and Water Conservation District has agreed to use its trackhoe to remove the poles.
- Need to hire someone to cut all of the wires attached to poles.

#### **2. Proposal:**

- Tom's Electric submitted a quote to cut all wires from the old poles.
- Quote: \$500

#### **3. Acknowledge Soil and Water Conservation District:**

- John Persch and the Soil and Water Conservation District have provided critical services and assistance with the installation of a new electric service at Tryon.
- They provided their track backhoe that was used to excavate and backfill ditches where underground cable was installed.
- They have also provided their backhoe and an operator to remove the old electrical poles and perform other work at Tryon.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda regarding the quote to cut all wires from the poles. He asked if there were any questions. There were none.

IDA ACTION:

MOTION: To authorize a payment of \$500 to Tom's Electric for cutting wires from the old poles at the Tryon Technology Park.

MADE BY: Joe Semione

SECONDED: Todd Rulison

ROLL CALL VOTE :

	Aye	Nay	Abstain	Absent
Dave D'Amore	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Joe Semione	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Todd Rulison	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Jane Kelley	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Mike Fitzgerald	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Joseph Gillis	<u>      </u>	<u>      </u>	<u>      </u>	<u>X</u>
Tim Munn	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>

FURTHER DISCUSSION: Jim Mraz reviewed the information on the Agenda regarding the work the Soil and Water Conservation District has performed at Tryon. He stated that the Soil and Water Conservation District has provided all these services at no cost to the IDA. He stated that he would like the IDA Board to give consideration to reimbursing the Soil and Water Conservation District for the time they spent working at Tryon and the expenses for fuel and oil. Joe Semione stated that given the volume of work that they performed, he recommended a payment of \$5,000. All other IDA members expressed their approval of such a payment.

MOTION: To authorize a payment of \$5,000 to the Fulton County Soil and Water Conservation District and extend a thanks to them for the work they provided with the installation of the new electric service at the Tryon Technology Park.

MADE BY: Joe Semione

SECONDED: Dave D'Amore

ROLL CALL VOTE :

	Aye	Nay	Abstain	Absent
Dave D'Amore	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Joe Semione	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Todd Rulison	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Jane Kelley	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Mike Fitzgerald	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Joseph Gillis	<u>      </u>	<u>      </u>	<u>      </u>	<u>X</u>
Tim Munn	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>

**B. Tryon Insurance:**

**1. Background:**

- Earlier this year, the IDA Board recommended certain changes to the Board of Supervisors' insurance coverages at Tryon.
- The Board of Supervisors submitted these recommended changes to NYMIR.

2. Revised Invoice:

- As a result of these changes, the cost of property insurance has decreased.
- The following compares the current invoice to previous invoices:

Insurance	Revised	Previous	Change
Property	\$ 1,528.34	\$ 3,528.34	(\$2,000.00)
General Liability	\$ 877.07	\$ 887.72	(\$ 10.65)
Excess	\$ 761.81	\$ 716.60	\$ 45.21
<b>Total</b>	<b>\$ 3,167.22</b>	<b>\$5,132.66</b>	<b>(\$1,965.44)</b>

- The changes resulted in a \$2,000 reduction for six (6) months for property insurance or \$4,000 for the year.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He asked if there were any questions. There were none.

IDA ACTION:

MOTION: To authorize a payment of \$3,167.22 to NBT Insurance Agency for Tryon insurance.

MADE BY:

SECONDED:

ROLL CALL VOTE :

	Aye	Nay	Abstain	Absent
Dave D'Amore	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Joe Semione	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Todd Rulison	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Jane Kelley	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Mike Fitzgerald	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Joseph Gillis	<u>      </u>	<u>      </u>	<u>      </u>	<u>X</u>
Tim Munn	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>

C. National Grid Invoice:

1. Background:

- As part of the new electric service at Tryon, an electric meter has been installed at the wastewater pump station.
- This electric meter is in the name of the IDA.
- The IDA has received the first monthly bill from National Grid for this pump station.
- Total Invoice Amount: \$168.35

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He asked if there were any questions. There were none.

IDA ACTION:

MOTION: To authorize the payment of \$168.35 to National Grid.

MADE BY: Joe Semione

SECONDED: Jane Kelley

ROLL CALL VOTE :

	Aye	Nay	Abstain	Absent
Dave D'Amore	X	—	—	—
Joe Semione	X	—	—	—
Todd Rulison	X	—	—	—
Jane Kelley	X	—	—	—
Mike Fitzgerald	X	—	—	—
Joseph Gillis	—	—	—	X
Tim Munn	X	—	—	—

**VIII. OTHER BUSINESS:**

**A. Executive Session:**

1. Upon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a public body may conduct an executive session for the below enumerated purposes only, provided, however, that no action by formal vote shall be taken to appropriate public moneys:
  - i. matters which will imperil the public safety if disclosed;
  - ii. any matter which may disclose the identity of a law enforcement agent or informer;
  - iii. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
  - iv. discussions regarding proposed, pending or current litigation;
  - v. collective negotiations pursuant to article fourteen of the civil service law;
  - vi. the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
  - vii. the preparation, grading or administration of examinations;
  - viii. **the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.**

MOTION: To go into Executive Session to discuss the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.

MADE BY : Dave D'Amore

SECOND : Joe Semione

ROLL CALL VOTE :

	Aye	Nay	Abstain	Absent
Dave D'Amore	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Joe Semione	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Todd Rulison	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Jane Kelley	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Mike Fitzgerald	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Joseph Gillis	<u>      </u>	<u>      </u>	<u>      </u>	<u>X</u>
Tim Munn	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>

TIME : 9:40 a.m.

MOTION : To go out of Executive Session.

MADE BY : Jane Kelley

SECOND : Joe Semione

ROLL CALL VOTE :

	Aye	Nay	Abstain	Absent
Dave D'Amore	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Joe Semione	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Todd Rulison	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Jane Kelley	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Mike Fitzgerald	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>
Joseph Gillis	<u>      </u>	<u>      </u>	<u>      </u>	<u>X</u>
Tim Munn	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>

TIME : 10:05 a.m.

**B. North Eastern Water Jet:**

- North Eastern Water Jet has acquired the former Falk Industries building in the Crossroads Industrial Park.
- There currently exists a vacant parcel of land immediately adjacent on the western side of the parcel purchased by North Eastern Water Jet.
- North Eastern Water Jet has asked if the IDA would be willing to sell them approximately 3 acres of land for a future expansion project.
- Land in the Crossroads Industrial Park currently sells for \$20,000/acre.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda. He asked if there were any questions. There were none.

MOTION : To authorize the sale of approximately 3 acres of land in the Crossroads Industrial Park to North Eastern Water Jet at a price of \$20,000/acre.

MADE BY : Joe Semione

SECOND : Jane Kelley

ROLL CALL VOTE :

	Aye	Nay	Abstain	Absent
Dave D'Amore	X	—	—	—
Joe Semione	X	—	—	—
Todd Rulison	X	—	—	—
Jane Kelley	X	—	—	—
Mike Fitzgerald	X	—	—	—
Joseph Gillis	—	—	—	X
Tim Munn	X	—	—	—

**IX. NEXT MEETING:**

Tuesday  
December 8, 2020  
8:00 a.m.

**X. CLOSE MEETING:**

MOTION : To close the meeting

MADE BY : Dave D'Amore

SECONDED : Tim Munn

ROLL CALL VOTE :

	Aye	Nay	Abstain	Absent
Dave D'Amore	X	—	—	—
Joe Semione	X	—	—	—
Todd Rulison	X	—	—	—
Jane Kelley	X	—	—	—
Mike Fitzgerald	X	—	—	—
Joseph Gillis	—	—	—	X
Tim Munn	X	—	—	—

TIME : 10:08 a.m.

## FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

*Adopted November 10, 2020*

*Introduced by Jane Kelley  
who moved its adoption.*

*Seconded by Mike Fitzgerald*

### **RESOLUTION APPROVING A CERTAIN PROJECT, AS DEFINED HEREIN, APPOINTING BENJAMIN MOORE & CO., AGENT OF THE AGENCY FOR THE PURPOSE OF CONSTRUCTING AND EQUIPPING THE PROJECT FACILITY (AS DEFINED HEREIN) AND AUTHORIZING THE EXECUTION AND DELIVERY OF CLOSING DOCUMENTS**

WHEREAS, the Fulton County Industrial Development Agency (the "Agency") is a body corporate and politic duly organized and existing under Article 18-A of the General Municipal Law of the State of New York, as amended, and Section 895-c of the General Municipal Law, with its principal place of business at 1 East Montgomery Street, Johnstown, New York; and

WHEREAS, Benjamin Moore & Co., a New Jersey corporation, authorized to do business in the State of New York, for itself and/or on behalf of an entity formed or to be formed (the "Company"), has submitted an application (the "Application") to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") for the benefit of the Company consisting of: (i) the acquisition of an interest in a certain parcel or parcels of real property located at 161 Union Avenue, City of Johnstown, County of Fulton, State of New York (the "Land") and referred to as tax map parcel number 174.14-1-8; (ii) the construction of an 120,000+/- square foot addition to the existing facility for manufacturing space and equipment storage (collectively referred to as (the "Facility"); and (iii) the acquisition and installation therein of certain furnishing and fixtures (the "Equipment" and together with the Land and the Facility, collectively (the "Project Facility") to be used in connection with the contemplated uses; and (iv) the lease of the Project Facility back to the Company, and (E) the providing of financial assistance to the Company for qualifying portions of the project in the form of sales and use tax exemptions, a mortgage recording tax exemption, if requested, and a partial real property tax abatement consistent with the policies of the Agency, all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York and Section 895-c of the General Municipal Law (collectively, the "Act"); and

WHEREAS, under 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 will agree 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 October 27, 2020 pursuant to Article 18-A of the Act 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 County of Fulton, 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; and

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

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

(F) 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 Fulton or the City of Johnstown; and

(G) The Project is a "Type I Action" under SEQRA for which the Fulton County Industrial Development Agency (the "Agency") has acted as lead agency. On or about November 10, 2020, the Agency thoroughly reviewed the Project Site Plan Application to the City of Johnstown, the environmental assessment form submitted on behalf of the Company and the 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 and issued its Negative Declaration. In doing so, the Agency satisfied 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

(H) The completion of the Project will not result in the removal of a commercial, industrial or manufacturing plant of the Company from one area of the State of New York to another area of the State of New York. Further, the completion of the Project will not result in any loss of jobs and all existing jobs will be retained 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; and

(I) The Agency further determines that the Project consists of a private investment estimated at \$17,750,000 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 one hundred thirty three (133) full time equivalent job opportunities and the creation of ten (10) full time equivalent job opportunities for the inhabitants of Fulton County 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; and

(K) The Agency determines that it is in the public interest for the Agency to undertake the Project on behalf of the Company.

SECTION 2. Description of Project.

(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 contingent upon the receipt of site plan approval of the City of Johnstown Planning Board and subject to the review and 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 June 30, 2023 (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 agent 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 any and all 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 approves of the execution of an Agent Agreement authorizing exemptions from the sales and use taxes for purchases and rentals related to the undertaking of the project in an amount not to exceed Seven Hundred Twenty Thousand Dollars (\$720,000.00), based on eligible project costs of Nine Million Dollars (\$9,000,000.00), which exemption will expire on June 30, 2023.

(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.

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:

The PILOT Agreement shall be for a term of ten (10) years. The PILOT payment schedule shall be as follows:

Year 1: Base Value plus 50% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 2: Base Value plus 45% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 3: Base Value plus 40% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 4: Base Value plus 35% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 5: Base Value plus 30% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 6: Base Value plus 25% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 7: Base Value plus 20% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 8: Base Value plus 15% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 9: Base Value plus 10% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 10: Base Value plus 5% of increased assessed valuation attributable to improvements made to the Project Facility.

The Base Value for the City parcel shall be \$3,740,000.00

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 minimum real property tax benefit during the term of the PILOT Agreement is One Hundred Ninety Thousand Dollars (\$190,000.00).

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 \$133,125.00 based upon an estimated Project cost of \$17,750,000.00 pursuant to the schedule set forth below and contained within the Company's Application for Financial Assistance:

First \$10 Million of Project Costs:	$\frac{3}{4}$ of 1%
Next \$10 Million of Project Costs:	$\frac{1}{2}$ of 1%
Next \$10 Million of Project Costs:	$\frac{1}{4}$ of 1%
Above \$30 Million of Project Costs:	$\frac{1}{8}$ 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. 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 8. Approval of Company's Financing Documents. The substance and form of the Underlying Lease, the Lease Agreement, Project Agreement, Agent 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 9. Authorized Representatives. (A) The Chairman or the Chief Executive Officer is hereby authorized to execute and deliver the Closing Documents. If required, the signature of the Chairman or Chief Executive Officer 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 Chief Executive Officer shall make such reasonable changes to the Closing 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 10. 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 11. Public Hearing. A public hearing for this Project was duly authorized and held on October 27, 2020 in accordance with the provisions of Article 18-A of the General Municipal Law.

SECTION 12. Further Assurance. The officers, employees and agents of the Agency are hereby authorized and directed to do all acts required by the provisions of the Closing Documents, and to execute and deliver all additional certificates, instruments and documents and to pay all fees, charges and expenses and do all other acts that may be necessary or proper to effectuate the purposes of this resolution. None of the members, officers, directors, employees or agents (except the Company) of the Agency, shall be personally liable under the other Closing Documents. 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 13. Filing of Documents. Originals of all Closing Documents for the Project shall be filed and maintained in the office of the Agency.

SECTION 14. 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 15. Effective Date. This resolution shall take effect immediately.

{Certification and Acknowledgement to Follow}

AYES: 6  
NAYS: 0  
ABSENT: 1 (Joe Gillis)  
ABSTAIN: 0

I, James E. Mraz, Executive Director of the Fulton County Industrial Development Agency, hereby certify that I have compared the foregoing resolution with the original resolution, adopted by the Fulton County Industrial Development Agency, at a duly called and held meeting of said Agency on the 10<sup>th</sup> day of November, 2020, and the same is a true and correct transcript there from and the whole thereof.

Witness my hand and official seal  
This 10<sup>th</sup> day of November, 2020

  
James E. Mraz, Executive Director

Acknowledged and Agreed to

\_\_\_\_\_  
By:  
Title:  
Benjamin Moore & Co.