

COUNTY OF OTSEGO INDUSTRIAL DEVELOPMENT AGENCY

April 22nd, 2021

MEETING MINUTES

Due to the Coronavirus (COVID-19), Federal and State emergency bans on large meetings or gatherings, and pursuant to Governor Cuomo's Executive Order 220.1, issued on March 12, 2020 suspending the Open Meetings Law, this COIDA Board of Director's Meeting was held via video conferencing, instead of an open meeting for the public to attend. Members of the public were given instructions on how to join the meeting.

CALL TO ORDER

Chairman, J. Joyner, called to order the meeting of COIDA at 8:00am via video conferencing app GoToMeeting. M. Marino conducted roll call and determined there was a quorum. Voting members present electronically included:

Jeffery Joyner
Jeffrey Lord
Patricia Kennedy
Andrew Marietta*
Joshua Edmonds

David Rowley
Craig Gelbsman
Cheryl Robinson
Tom Armao

Absent Board Member(s):

Also, in attendance:

STAFF

Jody Zakrevsky, **CEO**
Meaghan Marino, **Dir. of Finance and Administration**

COUNSEL

Kurt Schulte, **Agency Counsel**
Joe Scott, **Hodgson Russ**

GUESTS

Larry Frigault, **Richfield Springs Town Board**

*Arrived after start of meeting

CHAIRMAN'S REMARKS

Chairman, J. Joyner, welcomed fellow board members and moved immediately into the agenda.

MEETING MINUTES

J. Joyner presented the meeting minutes from the March 25th COIDA board meeting. Board members were given a copy of the minutes prior to the meeting for review. D. Rowley made a motion to approve the meeting minutes. The motion was seconded by C. Robinson and it was approved by the remaining members present.

BILLS & COMMUNICATIONS

M. Marino reviewed the bills and deposits since the April 8th Audit & Finance Committee meeting. She noted that there was only one new bill since the last meeting; a bill for Constellation Energy. She then reviewed the deposits made since April 8th. At that meeting, she advised the Audit & Finance Committee that we had not received rent payments from Congressman Delgado's staff. Since then, they sent the back rent that was owed and the rent for April, bringing them current. At the last meeting, M. Marino was asked when the new lease started and she had said March. She advised that board that she spoke incorrectly, and that the new terms of their lease were actually an amendment to their old lease and the new terms and new monthly rate started in January, 2021.

D. Rowley made a motion to pay the bills provided. C. Robinson seconded, and the motion was approved by remaining members.

COMMITTEE REPORTS

- ❖ Audit & Finance – The Audit & Finance Committee meeting was held on April 8th, 2021. J. Lord asked that board members review the draft April 8th Audit & Finance meeting minutes as a report of the Committee.
- ❖ Governance Committee – There was no Governance Committee meeting in April, 2021.
- ❖ Projects Committee – The Projects Committee meeting was held on April 8th, 2021. C. Robinson deferred the board to the draft April 8th Projects Committee meeting minutes as a report of the Project Committee meeting.

NEW BUSINESS / UNFINISHED BUSINESS

- **Corning** – There were two resolutions that were brought before the board regarding the Corning project; the SEQR Resolution and the Approving Resolution. J. Scott, bond counsel, briefly reviewed both resolutions with the board, whom had already received them prior to the meeting. The SEQR Resolution gives consideration to the potential environmental impacts of the project, and the Approving Resolution approves the operative documents; the lease agreement, the PILOT agreement, the clawback agreement, and authorizes the Chair to sign the documents. J. Scott noted that the SEQR work was done by the local Planning Commission, so the IDA deferred the SEQR review to them and is approving the negative-declaration SEQR based on their findings.

RESOLUTIONS AND MOTIONS

Corning – SEQR Resolution

Resolution No. 0421-

RESOLUTION ACCEPTING THE DETERMINATION BY THE CITY OF ONEONTA PLANNING COMMISSION TO ACT AS LEAD AGENCY FOR THE ENVIRONMENTAL REVIEW OF THE CORNING INCORPORATED SOLAR PROJECT AND ACKNOWLEDGING RECEIPT OF THE NEGATIVE DETERMINATION BY THE PLANNING COMMISSION ISSUED WITH RESPECT THERETO.

WHEREAS, County of Otsego Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 252 of the 1973 Laws of New York, as amended, constituting Section 910-a of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, warehousing, research, commercial and industrial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more "projects" (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, Corning Property Management Corp., a Delaware business corporation (the "Applicant") has submitted an application (the "Application") to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the "Project") for the benefit of Corning Incorporated, a New York business corporation (the "Company"), said Project consisting of the following: (A) (1) the acquisition of an interest or interests in an approximately 18.72 acre parcel of land located at 275 River Street in the City of Oneonta, Otsego County, New York (Tax Map No. 299.15-1-10) (collectively, the "Land"), together with the existing improvements located thereon containing in the aggregate approximately 100,000 square feet of space (the "Existing Facility"), (2) the construction of an addition to the Existing Facility to contain approximately 13,000 square feet of space (the "Addition") (the Existing Facility and the Addition collectively referred to as the "Facility") and (3) the acquisition and installation thereon and therein of various machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to be owned and operated by the Company for use as a facility for the manufacture of plastic lab ware and related products and other directly and indirectly related activities; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), the Agency has been informed that (A) the City of Oneonta Planning Commission (the "Planning Commission") was designated to act as the "lead agency" with respect to the Project and (B) the Planning Commission issued a Determination of Non Significance on January 20, 2021 (the "Negative Declaration") determining that the acquisition, construction, reconstruction, renovation and installation of the Project Facility will not have a "significant effect on the environment" (as such quoted term is defined in SEQRA); and

WHEREAS, the Agency is an "involved agency" with respect to the Project and the Agency now desires to concur in the determination by the Planning Commission, as "lead agency" with respect to the Project, to acknowledge receipt of a copy of an email from the Company regarding the designation as "lead agency", a copy of which is attached as Schedule B, and the minutes of the January 20, 2021 meeting (the "Minutes") of the Planning Commission, a copy of which is attached as Schedule A, and to indicate whether the Agency has any information to suggest that the Planning Commission was incorrect in determining to issue the Negative Declaration with respect to the Project and, therefore, that no further action is required by the Planning Commission;

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

Section 1.(A) The Agency has received copies of, and has reviewed, the Application and the Minutes (collectively, the "Reviewed Documents") and, based upon said Reviewed Documents, the Agency hereby ratifies and concurs in the designation of the Planning Commission as "lead agency" with respect to the Project (as such quoted term is defined in SEQRA).

(B) The Agency hereby determines that the Agency has no information to suggest that the Planning Commission was incorrect in determining to issue the Negative Declaration with respect to the Project.

Section 2. This Resolution shall take effect immediately.

C. Robinson made a motion to approve the SEQR Resolution for Corning's project. D. Rowley seconded the motion, and it was approved by remaining members in a roll-call vote.

Corning – Approving Resolution

Resolution No. 0421-

RESOLUTION AUTHORIZING EXECUTION OF DOCUMENTS IN CONNECTION WITH A LEASE/LEASEBACK TRANSACTION FOR A PROJECT FOR CORNING INCORPORATED (THE "COMPANY").

WHEREAS, County of Otsego Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 252 of the 1973 Laws of New York, as amended, constituting Section 910-a of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, warehousing, research, commercial and industrial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more "projects" (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, Corning Property Management Corp., a Delaware business corporation (the "Applicant") has submitted an application (the "Application") to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the "Project") for the benefit of Corning Incorporated, a New York business corporation (the "Company"), said Project consisting of the following: (A) (1) the acquisition of an interest or interests in an approximately 18.72 acre parcel of land located at 275 River Street in the City of Oneonta, Otsego County, New York (Tax Map No. 299.15-1-10) (collectively, the "Land"), together with the existing improvements located thereon containing in the aggregate approximately 100,000 square feet of space (the "Existing Facility"), (2) the construction of an addition to the Existing Facility to contain approximately 13,000 square feet of space (the "Addition") (the Existing Facility and the Addition collectively referred to as the "Facility") and (3) the acquisition and installation thereon and therein of various machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to be owned and operated by the Company for use as a facility for the manufacture of plastic lab ware and related products and other directly and indirectly related activities; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on January 28, 2021 (the "Public Hearing Resolution"), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency pursuant to Section 859-a of the Act (the "Public Hearing") to hear all persons interested in the Project and the Financial Assistance being contemplated by the Agency with respect to the Project, to be mailed on March 9, 2021 to the chief executive officers of the county and of each city, town, village and school district in which the Project is to be located, (B) caused notice of the Public Hearing to be posted on March 9, 2021 on the City of Oneonta City Hall website as well as on the Agency's website, (C) caused notice of the Public Hearing to be published on March 12, 2021 in The Daily Star, a newspaper of general circulation available to the residents of the City of Oneonta, New York, (D) as a result of the ban on large meetings or gatherings pursuant to Executive Order 202.1, as supplemented, and the suspension of the Open Meetings Law relating to public hearings pursuant to Executive Order 202.15, as supplemented, each as issued by Governor Cuomo in response to the novel Coronavirus (COVID-19) pandemic, conducted the Public Hearing on March 24, 2021 at 11:00 o'clock a.m. local time, electronically via conference call rather than in person, and (E) prepared a report of the Public Hearing (the "Public Hearing Report") fairly summarizing the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the Agency on April 22, 2021 (the "SEQR Resolution"), the Agency acknowledged that (A) the City of Oneonta Planning Commission (the "Planning Commission") was designated to act as the "lead agency" with respect to the Project and (B) the Planning Commission issued a Determination of Non Significance on January 20, 2021 (the "Negative Declaration") determining that the acquisition, construction, reconstruction, renovation and installation of the Project Facility will not have a "significant effect on the environment" (as such quoted term is defined in SEQRA); and

WHEREAS, the Agency has given due consideration to the Application, and to representations by the Company that (A) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Company to undertake the Project in Otsego County, New York and (B) the completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility located in the State of New York; and

WHEREAS, the Agency desires to encourage the Company to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of Otsego County, New York by undertaking the Project in Otsego County, New York; and

WHEREAS, in order to consummate the Project and the granting of the Financial Assistance described in the notice of the Public Hearing, the Agency proposes to enter into the following documents (hereinafter collectively referred to as the "Agency Documents"): (A) a certain lease to agency (the "Lease to Agency" or the "Underlying Lease") by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company will lease to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the "Leased Premises"); (B) a certain license agreement (the "License to Agency" or the "License Agreement") by and between the Company, as licensor, and the Agency, as licensee, pursuant to which the Company will grant to the Agency (1) a license to enter upon the balance of the Land (the "Licensed Premises") for the purpose of undertaking and completing the Project and (2) in the event of an occurrence of an Event of Default by the Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement (as hereinafter defined); (C) a lease agreement (and a memorandum thereof) (the "Lease Agreement") by and between the Agency and the Company, pursuant to which, among other things, the Company agrees to undertake the Project as agent of the Agency and the Company further agrees to lease the Project Facility from the Agency and, as rental thereunder, to pay the Agency's administrative fee relating to the Project and to pay all expenses incurred by the Agency with respect to the Project; (D) a payment in lieu of tax agreement (the "Payment in Lieu of Tax Agreement") by and between the Agency and the Company, pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility; (E) a uniform agency project agreement (the "Uniform Agency Project Agreement") by and between the Agency and the Company regarding the granting of the financial assistance and the potential recapture of such assistance; (F) a certain recapture agreement (the "Section 875 GML Recapture Agreement") by and between the Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes; (G) a sales tax exemption letter (the "Sales Tax Exemption Letter") to ensure the granting of the sales tax exemption which forms a part of the Financial Assistance; (H) a New York State Department of Taxation and Finance form entitled "IDA Appointment of Project Operator or Agency for Sales Tax Purposes" (the form required to be filed pursuant to Section 874(9) of the Act) (the "Thirty-Day Sales Tax Report") and any additional report to the Commissioner of the State Department of Taxation and Finance concerning the amount of sales tax exemption benefit for the Project (the "Additional Thirty-Day Project Report"); (I) if the Company intends to finance the Project with borrowed money, a mortgage and any other security documents and related documents (collectively, the "Mortgage") from the Agency and the Company to the Company's lender with respect to the Project ("the "Lender"), which Mortgage will grant a lien on and security interest in the Project Facility to secure a loan from the Lender to the Company with respect to the Project (the "Loan"); and (J) various certificates relating to the Project (the "Closing Documents");

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

Section 1. All action taken by the Chief Executive Officer of the Agency with respect to the Public Hearing with respect to the Project is hereby ratified and confirmed.

Section 2. The law firm of Hodgson Russ LLP is hereby appointed Special Counsel to the Agency with respect to all matters in connection with the Project. Special Counsel for the Agency is hereby authorized, at the expense of the Company, to work with the Company, counsel to the Company, counsel to the Agency and others to prepare, for submission to the Agency, all documents necessary to effect the transactions contemplated by this Resolution. Special Counsel has prepared and submitted an initial draft of the Agency Documents to staff of the Agency.

Section 3. The Agency hereby finds and determines that:

- (A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act;
- (B) The Project constitutes a "project," as such term is defined in the Act;
- (C) The Project site is located entirely within the boundaries of Otsego County, New York;
- (D) It is estimated at the present time that the costs of the planning, development, acquisition, construction, reconstruction and installation of the Project Facility (collectively, the "Project Costs") will be approximately \$14,703,000;
- (E) The completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility located in the State of New York;

(F) The Project Facility does not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one third of the total cost of the Project Facility;

(G) The granting of the Financial Assistance by the Agency with respect to the Project will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Otsego County, New York and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act;

(H) The Agency has reviewed the Public Hearing Report and has fully considered all comments contained therein;

(I) The Project should receive the Financial Assistance in the form of exemptions from sales tax, mortgage recording tax and real property tax based on the description of expected public benefits to occur as a result of this Project, as described on Exhibit A attached hereto and failure by the Company to meet the expected public benefits will result in a recapture event, as described on Exhibit B attached hereto; and

(J) It is desirable and in the public interest for the Agency to enter into the Agency Documents.

Section 4. In consequence of the foregoing, the Agency hereby determines to: (A) accept the License Agreement; (B) lease the Project Facility to the Company pursuant to the Lease Agreement; (C) acquire, construct and install the Project Facility, or cause the Project Facility to be acquired, installed and constructed; (D) enter into the Payment in Lieu of Tax Agreement; (E) enter into the Uniform Agency Project Agreement; (F) enter into the Section 875 GML Recapture Agreement; (G) secure the Loan by entering into the Mortgage; and (H) grant the Financial Assistance with respect to the Project.

Section 5. The Agency is hereby authorized (A) to acquire a license in the Licensed Premises pursuant to the License Agreement, (B) to acquire a leasehold interest in the Leased Premises pursuant to the Underlying Lease, (C) to acquire title to the Equipment pursuant to a bill of sale (the "Bill of Sale to Agency") from the Company to the Agency, and (D) to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisitions are hereby approved, ratified and confirmed.

Section 6. The Agency is hereby authorized to acquire, construct and install the Project Facility as described in the Lease Agreement and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition, construction and installation are hereby ratified, confirmed and approved.

Section 7. The Chairman (or Vice Chairman) of the Agency, with the assistance of Agency Counsel and/or Special Counsel, is authorized to negotiate and approve the form and substance of the Agency Documents.

Section 8. (A) The Chairman (or Vice Chairman) of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agency Documents, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in the forms thereof as the Chairman (or Vice Chairman) shall approve, the execution thereof by the Chairman (or Vice Chairman) to constitute conclusive evidence of such approval.

(B) The Chairman (or Vice Chairman) of the Agency is hereby further authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 9. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing Resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 10. This Resolution shall take effect immediately.

D. Rowley made a motion to approve the Approving Resolution for the Corning project. T. Armao seconded the motion, and it was approved by remaining members in a roll-call vote.

PUBLIC COMMENT

There were no public comments.

ADJOURNMENT

There being no further business to discuss, C. Robinson made a motion to adjourn the meeting at 8:17am.

UPCOMING MEETING SCHEDULE

- COIDA/OCCRC Audit & Finance Committee Meeting / Projects Committee Meeting – May 10th, 2021 at 8:00am
- COIDA/OCCRC Board Meeting – May 27th, 2021 at 8:00am

***All meetings are held at the Otsego Now offices at 189 Main Street, Oneonta. NY. 13820, unless otherwise specified.**