

# TOWN OF LOCKPORT INDUSTRIAL DEVELOPMENT AGENCY

## BOARD OF DIRECTORS

Meeting Minutes January 12<sup>th</sup>, 2023

### 1.0 Roll Call

**Present** – Chairman Todd Fragale, Treasurer Robert Runk, Secretary Jeanine Chatt, Board Members Daniel Antkowiak, Kristin Anderson and Darlene DiCarlo  
Legal Counsel – Tom Seaman and Dan Seaman, Administrative Director – Thomas Sy.

**Public Hearing – Cornerstone FCU-** Eric Hepkins, CEO, Drew Dunlap, CFO, and Mary Sheib, COO, were present from Cornerstone. No members of the general public present. Attorney Tom Seaman open the public hearing at 8:01am by reading the notice. No written correspondence was received. CFO Drew Dunlap reviewed the back-office project in detail. Members of the Board asked clarifying questions focusing on the split between back office and retail space. The public hearing was closed at 8:15 am.

**Public Hearing – SIVA Powers America** – Padma Kasthurirangan CEO SIVA Powers, Kelly Bucklaew, Kenneth Rawe Jr. Attorney Tom Seaman opened the public hearing at 8:17am by reading the notice. No written correspondence had been received. Padma Kasthurirangan reviewed the manufacturing project and the plans to install a 250kw wind turbine to power their operations. Members of the Board asked clarifying questions. Statements of support for the project were made by Mr. Rawe and Ms. Bucklaew. The public hearing was closed at 8:26 am.

### **CALL TO ORDER:**

The regular January Board meeting was called to order at 8:35 am by Chairman Todd Fragale after completion of the Annual Meeting. Mr. Fragale began the meeting by welcoming new Board member Kristin Anderson.

### 2.0 **SECRETARY'S REPORT:**

On a motion by Mrs. DiCarlo, seconded by Mr. Antkowiak, the minutes of the December 8<sup>th</sup> Board Meeting were approved. Vote 6-yes, 0-no, unanimous.

### 3.0 **TREASURER'S REPORT:**

Mr. Runk reviewed for the Board the December 31<sup>st</sup> financial statements for the Board. The review covered the Income Statement, Statement of Cash Transactions, and Balance Sheet. On the Income Statement, Mr. Runk completed a review of the income for the month including 2 application fees and a general review of the previous month's expenditures focusing on the payment to the Town of Lockport that included the bond principal and interest. Expenditures totaled \$20,347.48 for the month and the deficit year-to-date at year end is (\$5,420.36). As concerns the Statement of Cash Transactions, Mr. Runk noted the interest earned, application fees and total cash balance. He also did a general review of the prior month's expenditures and noted that the December 31<sup>st</sup> cash balance was \$1,733,675. Concerning the Balance Sheet, Mr. Runk highlighted the prepaid expense as well as the checking and savings account balances and the year end fund balance. On a motion by Mrs. Chatt, seconded by Mr. Antkowiak, the report was approved as presented. Vote 6-yes, 0-no, unanimous.

Mr. Sy noted that the savings account interest rate is now 1% but that he and Mr. Runk would be meeting with our Evans representative in the coming weeks.

Mr. Runk reviewed the monthly bills for January 2023 that totaled \$19,434.14. The bills included quarterly payments to the CFO and Attorneys and a number of annual dues payments. On a motion by Mr. Runk, seconded by Mrs. Chatt, the Board of Directors approved payment of the bills.

#### **4.0 ADMINISTRATIVE DIRECTOR'S REPORT:**

Mr. Sy reviewed highlights of his submitted report for the month of December and early January.

Mr. Sy noted that he plans to attend the annual NYSEDC Winter Conference in Albany on 3/1-3/2. He asked the Board for approval and noted the cost should be \$800. On a motion by Mr. Runk, seconded by Mrs. Chatt, the Board approved the expenditure. Vote 6-yes, 0-no, unanimous.

Mr. Sy informed the Board he is approximately 80% complete for the submittal to NYSESD and their FAST - NY grant program under Track B. The ask will be for \$63,750 and he is in need of Mr. Fragale's signing of a Letter of Support. On a motion by Mrs. DiCarlo, seconded by Mrs. Chatt, the Board approved the filing of the grant and submitting the letter of support. Vote 6-yes, 0-no, unanimous.

Mr. Sy informed the Board that he has each Board member's individual Financial Disclosure form that they are to review, sign and return to him.

Mr. Sy informed the Board that their packet included the comprehensive Buffalo Labor Market Assessment completed by INVEST B/N and Newmark. Mr. Sy shared a few highlights but encouraged the Board to review the report.

Mr. Sy also announced that the 2022 audit of the IDA will commence soon with Lumsden McCormick and he will coordinate submittals with Kate Carter.

Lastly, Mr. Sy noted the packet included the Board meeting dates for 2023 and the full listing of Board members contact information for 2023.

#### **5.0 ATTORNEY'S REPORT:**

Mr. Seaman reported that the PILOT closing for the Day/Slayton Settlement Solar project with Renewable Properties is complete. He presented Mr. Sy with the IDA Project fee and closing statement for the IDA files.

#### **6.0 OLD BUSINESS:**

Mr. Sy noted he will arrange a tour of the 1090 Rapids Rd property with the individual that farms a portion of it later this spring.

#### **7.0 EXECUTIVE SESSION:**

A motion was made by Mrs. Chatt to enter into Executive Session for purposes of consultation with Attorney at 9:01 am. The motion seconded by Mrs. DiCarlo. A motion was made by Mrs. Chatt to exit Executive Session at 9:23 am. The motion seconded by Mr. Runk.

#### **8.0 NEW BUSINESS:**

Mr. Sy reminded the Board they are in receipt of the letter of resignation from former IDA Board member Eric Connor. Mr. Connor had served on the IDA Board for over 12 years and served in a number of leadership roles. Mr. Connor's resignation was accepted with regret and Mr. Fragale will draft a thank you to be mailed to Mr. Connor.

Mr. Seaman presented the Board with an inducement resolution for the proposed 15-year PILOT with Cornerstone FCU and their back-office project. While this project is a deviation from the Boards Uniform Tax-Exempt Policy, Mr. Seaman noted such notifications had been made. After brief discussion a motion was made by Mrs. DiCarlo, seconded by Mr. Runk, to approve the inducement resolution.

Voice Vote:

Kristin Anderson – abstain

Jeanine Chatt - yes

Darlene DiCarlo – yes

Robert Runk - yes

Daniel Antkowiak – yes

Todd Fragale – yes

Mr. Seaman presented the Board with an inducement resolution for the proposed 15-year PILOT, sales tax exemption and mortgage recording tax exemption for SIVA Powers America for the construction of a 10,000 sq. ft. manufacturing facility for wind turbines. Mr. Seaman noted the project also includes the sale of land. After brief discussion a motion was made by Mrs. DiCarlo, seconded by Mrs. Chatt, to approve the inducement resolution.

Voice Vote:

Kristin Anderson – abstain

Jeanine Chatt - yes

Darlene DiCarlo – yes

Robert Runk - yes

Daniel Antkowiak – yes

Todd Fragale – yes

**9.0 NEXT MEETING:**

The next meeting of the IDA Board will be on February 9<sup>th</sup>, 2023 at 8am.

**10.0 ADJOURNMENT:**

On a motion by Mr. Antkowiak, seconded by Mr. Runk, the Board voted to adjourn at 9:27 am. Vote 6-yes, 0-no, unanimous.

Respectfully submitted,

Jeanine Chatt  
Board Secretary

RESOLUTION OF THE TOWN OF LOCKPORT INDUSTRIAL DEVELOPMENT AGENCY (THE AGENCY) AUTHORIZING SIVA POWERS AMERICA, INC. (THE LESSEE) FOR THE ACQUISITION OF 1060 ENTERPRISE DRIVE, LOCKPORT, NEW YORK (TAX MAP NO. 108.00-1-41.111) AND CONSTRUCTION OF AN APPROXIMATELY 10,000 SQUARE FOOT BUILDING AND FACILITY THEREON TO BE USED AS A MANUFACTURING FACILITY SPECIALIZING IN ASSEMBLY OF WIND TURBINES, AND THE FUTURE MANUFACTURE OF WIND TURBINE BLADES, FOR DISTRIBUTED WIND TURBINES, TOGETHER WITH AN ONSITE WIND TURBINE PLACEMENT TO GENERATE POWER FOR THE MANUFACTURING FACILITY, AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE TO THE AGENCY, A LEASEBACK AGREEMENT, A MORTGAGE AND SECURITY AGREEMENT, AND OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH.

**WHEREAS**, Siva Powers America, Inc. (the Lessee) has entered into negotiations with the Town of Lockport Industrial Development Agency (the Agency) for assistance for the acquisition of property at 1060 Enterprise Drive, Lockport, New York and construction of a 10,000 +/- square foot building thereon (the Premises) and to utilize said building for a manufacturing facility and machine shop specializing in assembly of wind turbines, and the future manufacture of wind turbine blades, for distributed wind turbines, together with an onsite wind turbine placement to generate power for the manufacturing facility (the Project) and the lease of the project to the Agency and leaseback to the Lessee, or a related entity, with real property tax abatement, mortgage tax abatement and sales tax abatement, if applicable; and

**WHEREAS**, the Lessee has submitted an Application for Financial Assistance and other materials and information to the Agency (collectively hereinafter the "Application for Incentives") to initiate the accomplishment of the above; and

**WHEREAS**, the Application for Financial Assistance sets forth certain information with respect to the Lessee, including the following: the Lessee desires Agency assistance to purchase the Premises and development of the Project consisting of the construction of a manufacturing facility and machine shop specializing in specializing in assembly of wind turbines, and the future manufacture of wind turbine blades, for distributed wind turbines, together with the construction of an onsite wind turbine placement to generate power for the manufacturing facility, with resultant increase in employment in the Town of Lockport; the Lessee will employ approximately fifteen full-time employees and five part-time employees after the Project is fully completed and will retain one additional full-time employee; that but for the availability of financing and/or other assistance by the Agency, the Lessee would not locate the Project and expand its business within the Town of Lockport,

that the project will not result in the abandonment of a similar facility of applicant in the Town of Lockport, the Project is necessary to discourage the applicant from removing such development of the Project outside the State and/or is reasonably necessary to preserve the competitive position of the applicant in its industry, and the Project will provide substantial increased employment and substantial capital investment; if Agency financing or other assistance is disapproved, the Lessee would likely not proceed with the Project; and that, therefore, Agency financing or other assistance is necessary to encourage the Lessee to proceed with the Project in the Town of Lockport; and

**WHEREAS**, the Agency has held a Public Hearing on the Project pursuant to Section 859-A of the General Municipal Law; and

**WHEREAS**, the Agency desires to encourage the Lessee with respect to the acquisition of the Premises and development of the Project, if by so doing it is able to induce the Lessee, to proceed with the Project in the Town of Lockport; and

**WHEREAS**, the Agency has determined that the Project be limited to the parcel located at 1060 Enterprise Drive, Town of Lockport, New York (Tax Map No. 108.00-1-41.111);

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF LOCKPORT INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:**

Section 1. The Agency hereby determines that the acquisition of the Parcel and installation of the Project and the financing or other assistance thereof by the Agency pursuant to the New York State Industrial Development Agency Act will promote and is authorized by and will be in furtherance of the policy of the State as set forth in said Act. The Agency further hereby determines, on the basis of the Application for Incentives and supplemental information furnished by the Lessee as follows: (a) it would not have assisted the Project except to induce the location of the Project in the area to be served by the Project as there is a demonstrable need for the Project and the services it offers; (b) but for the availability of Agency assistance for the Project in such area, the Project would not be economically feasible; (c) that the Project is necessary to discourage the applicant from removing the Project to another facility outside the State and/or is reasonably necessary to preserve the competitive position of the applicant in its industry; and (d) the Project will preserve and provide substantial employment and substantial capital investment. The Agency further determines, on the basis of the Lessee's

Application for Incentives that (e) the Project as represented is reasonably necessary to provide the purposes of the Act, and (f) the Project is an integral part of the Lessee's plan to proceed with the Project in the Town of Lockport.

Section 2. The Agency hereby authorizes the Lessee to proceed with the Project as herein authorized at a cost not to exceed \$2,620,000.00, which Project will be financed through mortgage financing in an amount not to exceed \$2,620,000.00 through a bank to be designated, UCC-1 Financing Statements to the Lender, a Lease Agreement between the Agency and the Lessee, and a Leaseback Agreement between the Agency and the Lessee, together with any/all other agreements or instruments executed and delivered by the Agency in furtherance of this resolution, each in substantially the same form approved by the Agency for prior transactions or in form approved by the Chairman, Treasurer, Administrative Director, Secretary, Assistant Secretary, and any member or officer of the Agency, who are hereby authorized to execute, acknowledge, and deliver each such Instrument and the Chairman, Treasurer, Administrative Director, Secretary, and any member or officer of the Agency are hereby authorized to affix the seal of the Agency on each such instrument, as applicable, and attest the same, or in the alternative through a lease transaction. All other provisions of the Resolution relating to the Lease Agreement, shall apply to such Instruments.

All covenants, stipulations, obligations and agreements of the Agency contained in this resolution, the Lease Agreement between the Agency and the Lessee, and a Leaseback Agreement between the Agency and the Lessee, together with any/all other agreements or instruments executed and delivered by the Agency in furtherance of this resolution, shall be deemed to be the covenants, stipulations, obligations, and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations, and agreements shall be binding upon the Agency and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations, and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers, and privileges conferred and duties and liabilities imposed upon the Agency or the members thereof by the provisions of this Resolution, the Lease Agreement between the Agency and the Lessee, the Leaseback Agreement between the Agency and the Lessee, together with any/all other agreements or instruments executed and delivered by the Agency in furtherance of this resolution, as the case maybe, shall be exercised or performed by the Agency or by such members, officers, board, or body as

may be required by law to exercise such powers and to perform such duties.

No covenants, stipulation, obligation, or agreement herein contained or contained in any mortgage financing, any UCC-1 Financing Statements, the Lease Agreement between the Agency and the Lessee, the Leaseback Agreement between the Agency and the Lessee, and any/all other agreements or instruments executed and delivered by the Agency in furtherance of this resolution shall be deemed to be a covenant, stipulation, obligation, or agreement of any member, officer, agency, or employee of the Agency in his individual capacity and neither the members of the Agency or any officer executing the mortgage financing, the UCC-1 Financing Statements, the Lease Agreement between the Agency and the Lessee, the Leaseback Agreement between the Agency and the Lessee, and any/all other agreements or instruments executed and delivered by the Agency in furtherance of this resolution shall be liable personally thereon or be subject to any personal liability or accountability by reason of the execution and delivery thereof.

The Chairman, Treasurer, Administrative Director, Secretary, Assistant Secretary, and any member or officer of the Agency are hereby designated the authorized representatives of the Agency and each of them is hereby authorized and directed to execute and deliver any and all agreements, papers, instruments, opinions, certificates, affidavits, and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the execution and delivery of any mortgage financing, any UCC-1 Financing Statements, the Lease Agreement between the Agency and the Lessee, the Leaseback Agreement between the Agency and the Lessee, and any/all other agreements or instruments executed and delivered by the Agency in furtherance of this resolution.

Section 3. The provisions of Section 875 of the General Municipal Law which became effective on March 28, 2013 shall apply to this Project. In the event it is determined that an agent, project operator, or other person or entity obtained state sales and use exemptions benefits for which they were not entitled or which were in excess of the amount authorized or which are for property or services not authorized or taken in cases where such Lessee, its agents, project operators, or other person or entity failed to comply with a material term or condition to use property or services in the manner required by Agreements entered into between the Agency and the applicant with respect to the Project, the agent, project operator, or other person or entity shall comply with all the provisions of Section 875 and pay back to the Agency the amount of the state

sales and use tax exemptions benefits that they obtained but were not entitled to.

Section 4. The Agency will undertake, as soon as it is furnished with sufficient information to use its best efforts to proceed, subject to agreement among the Agency and the Lessee as to terms in all agreements to be entered in to with respect to the Project.

Section 5. The Chairman, Administrative Director, Treasurer, Secretary, or Assistant Secretary, of the Agency and other appropriate officials or Board Members of the Agency and its agents and employees are hereby authorized and directed to take whatever steps may be necessary to cooperate with the Lessee to assist in the acquisition of the Project.

Section 6. The Lessee is authorized to acquire the premises, and to utilize said premises for a manufacturing facility and machine shop specializing in assembly of wind turbines, and the future manufacture of wind turbine blades, for distributed wind turbines, together with an onsite wind turbine placement to generate power for the manufacturing facility, and to install machinery and equipment required in connection therewith; and to advance such funds as may be necessary to accomplish such purposes. The Agency is hereby authorized to enter into such agreements with the Lessee as the Chairman, or Administrative Director or other officer of the agency may deem necessary in order to accomplish the above.

Section 7. The Lessee is authorized to make purchases of goods and services relating to the Project that would otherwise be subject to New York State and local sales and use tax in an estimated amount up to \$480,000.00, which may result in a New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed \$38,400.00. The Agency may consider any requests by the Lessee for increases in the amount of sales and use tax benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services necessary for the completion of the Project.

Section 8. Any such action heretofore taken by the Lessee in acquisition of the Project is hereby ratified, confirmed and approved.

Section 9. Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Lessee, whether or not the transaction is consummated. By acceptance hereof, the Lessee agrees to pay such expenses and



further agrees to indemnify the Agency, its members, directors, officers, employees, and agents and hold the Agency and such persons harmless against claims for losses, damage or injury, or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Project and the financing thereof.

Section 10. This resolution is subject to Agency approval of payment in lieu of taxes agreement ("PILOT") for municipal services. Should the Lessee or any of its subtenants vacate the premises prior to the expiration of the arrangement for payment in lieu of taxes, the Lessee shall use its best efforts to obtain new subtenants, so that no application will be necessary for reduction in assessed value, it being the intent of the Agency that payments in lieu of taxes will be maintained at the level called for by its standard policy at all times while it holds a lease to the Project. The PILOT shall be for a period of 15 years with payments in lieu of taxes in accordance with an initial payment of 20% of the amount of Taxes the first two years and 30% in years three and four; 40% in years five through nine; and 50% in years ten through fifteen.

Section 11. The provisions of this resolution shall continue to be effective until one year from the date hereof whereupon this resolution shall cease to be effective (except with respect to matters contained in Section 8 hereof) unless prior to the expiration of such period (a) the Agency shall by subsequent resolution extend the effective date of this resolution or (b) the Agency shall enter into Lease and Leaseback agreements or (c) the Lessee shall continue to take affirmative steps to secure financing for the Project, as determined in the sole discretion of the Agency.

Section 12. This resolution is also subject to (a) the acquisition of space suitable for the purpose authorized herein (b) approval by the Agency of any Sublease including any information that the Agency deems necessary to verify compliance with the New York State Industrial Development Agency Act and (c) provision in any Sublease for use of the Project only for those purposes specified above or otherwise permitted by the New York State Industrial Development Agency Act and approved by the Agency.

Section 13. The execution and delivery of a Lease or a Lease and Leaseback between the Agency and the Lessee, being substantially in the form approved by the Agency for prior transactions or in form approved by the Chairman, Administrative Director, or any member of the Board of Directors or the Agency attorney is hereby authorized. The appropriate officers of the

Agency are hereby authorized to execute, seal, acknowledge, and deliver such agreement and any and all papers, instruments, opinions, certificates, affidavits, and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this resolution. The execution and delivery of each such instrument shall be conclusive evidence of due authorization and approval.

Section 14. The mortgage financing to be issued, if any, shall not be exempt from Federal Income Taxation. Therefore, this resolution is not subject to compliance with the provisions of Section 103 of the Internal Revenue Code of 1954 as amended (the "Code") or to an appropriate allocation under the State law pursuant to the Deficit Reduction Act of 1984.

Section 15. The Agency has made and makes no representation or warranty whatsoever, either express or implied, with respect to the merchantability, condition, environmental status, fitness, design, operation, or workmanship of any part of the Project, its fitness for any particular purpose, the quality or capacity of the materials in the Project, or the suitability of the Project for the Lessee's purposes or needs, or the extent to which proceeds derived from the mortgage will be sufficient to pay the cost of the acquisition, renovation, and installation of the Project. The Lessee is satisfied that the Project is suitable and fit for Lessee's purposes. The Agency shall not be liable in any manner whatsoever to anyone for any loss, damage, or expense of any kind or nature caused, directly or indirectly, by the Project property or the use or maintenance thereof or the failure of operation thereof, or the repair, service, or adjustment thereof, or by any delay or failure to provide any such maintenance, repairs, service, or adjustment, or by any interruption of service or loss of use thereof or for any loss of business howsoever caused and the Lessee hereby indemnifies and holds the Agency harmless from any such loss, damage or expense.

Section 16. This resolution is subject to compliance with all New York State Laws and local Town of Lockport Codes and building and zoning requirements, including but not limited to obtaining State Environmental Quality Review Act determinations allowing for the development of the Project, and obtaining all required Town of Lockport Zoning Board of Appeals and Planning Board approvals and permits, as applicable.

Section 17. This resolution is subject to New York State Law regarding prevailing wages.

Section 19. This resolution is subject to the Lessee and the Agency coming to terms and entering into a sales contract for the Premises, conditioned on approval of the Agency legal counsel.

Section 18. This resolution shall take effect immediately.

Adopted January 12, 2023

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link w going into

OR  
right of first refusal

— / X'S —  
4.5 acres

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Enterprise Dr

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Existing Cellular tower  
on adjoining property

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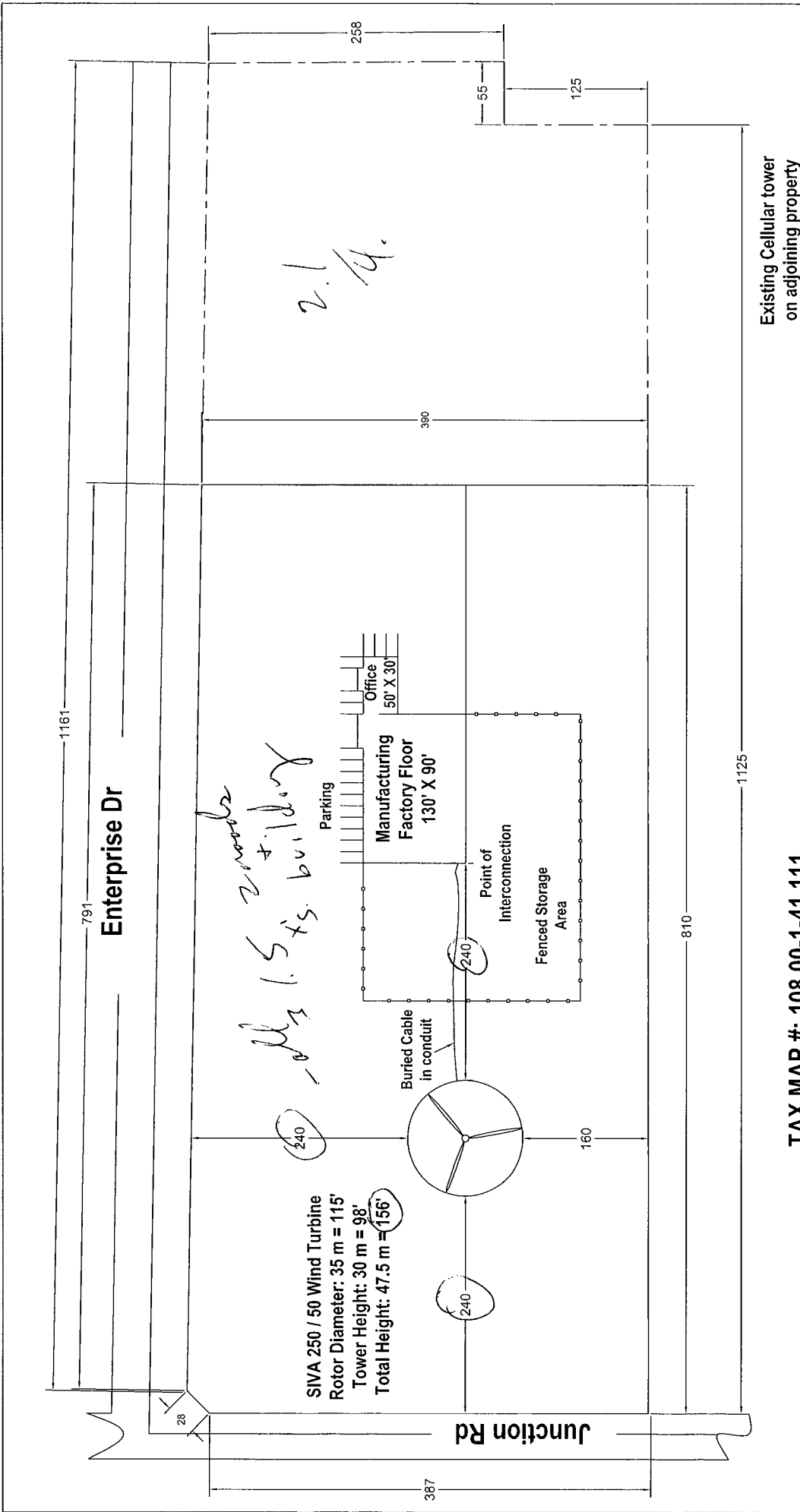
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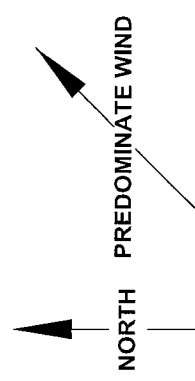
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**TAX MAP #: 108.00-1-41.111**  
**Applicant: Siva Powers America, Inc**  
**ADDRESS: 1060 Junction Rd/Enterprise Dr, Lockport, NY 14094**  
**ACREAGE: 10.0**  
**CURRENT LAND USE: Industrial**  
**SCALE: NONE**  
**DIMENSION UNITS: FEET**



Existing Cellular tower  
 on adjoining property



**BUFFALO RENEWABLES INC**  
 300 E. Buffalo Road, Suite 310  
 Amherst, New York 14226  
 PH: 716-651-0124 FAX: 716-651-0124  
 WWW: www.buffaloren.com/buffaloren.htm

DATE	DESCRIPTION	BY
11/19/2007	ISSUED FOR PERMIT	JK
11/19/2007	REVISION	JK
11/19/2007	REVISION	JK

**Siva Powers America**  
**Site Plan**

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DATE	DESCRIPTION	BY
11/19/2007	ISSUED FOR PERMIT	JK
11/19/2007	REVISION	JK
11/19/2007	REVISION	JK

**REFERENCE DRAWINGS:**

NO.	DESCRIPTION
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RESOLUTION OF THE TOWN OF LOCKPORT INDUSTRIAL DEVELOPMENT AGENCY (THE AGENCY) AUTHORIZING CORNERSTONE COMMUNITY FEDERAL CREDIT UNION (THE LESSEE) FOR THE ACQUISITION OF 5810 SOUTH TRANSIT ROAD, LOCKPORT, NEW YORK (TAX MAP NO. 123.17-1-39) AND CONSTRUCTION OF A SECOND BUILDING OF APPROXIMATELY 5,000 SQUARE FOOT BUILDING, AND FACILITY THEREIN, WHICH WILL HOUSE BACK OFFICE BANKING POSITIONS, DRIVE-THROUGH TELLER LANES AND ONE ATM DRIVE-THROUGH LANE, AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE TO THE AGENCY, A LEASEBACK TO THE LESSEE, A PAYMENT IN LIEU OF TAXES AGREEMENT, AND OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH.

**WHEREAS**, Cornerstone Community Federal Credit Union (the Lessee) has entered into negotiations with the Town of Lockport Industrial Development Agency (the Agency) for assistance for the acquisition of property at 5810 South Transit Road, Lockport, New York (the Premises) and construction of a second building on said parcel of 5,000 +/- square feet thereon and to utilize said building for the housing of back office banking facilities, drive-through teller lanes, and one ATM drive-through lane (the Project) and the lease of the project to the Agency and leaseback to the Lessee, or a related entity, with real property tax abatement; and

**WHEREAS**, the Lessee has submitted an Application for Financial Assistance and other materials and information to the Agency (collectively hereinafter the "Application for Incentives") to initiate the accomplishment of the above; and

**WHEREAS**, the Application for Financial Assistance sets forth certain information with respect to the Lessee, including the following: the Lessee desires Agency assistance to purchase the Premises and develop the Project, consisting of the construction of a second building on the Premises of 5,000 +/- square feet to utilize said building for the housing of back office banking facilities, drive-through teller lanes, and one ATM drive-through lane (the Project), with resultant increase in employment in the Town of Lockport; the Lessee will employ approximately ten new full-time employees after the Project is fully completed and will retain twenty six additional full-time employees; that but for the availability of financing and/or other assistance by the Agency, the Lessee would not accelerate the job creation of 10 additional new full time positions and that delays in the development of the Project and the resultant job growth would take place; that although the project may result in the abandonment of another facility from a municipality within Niagara/Erie County, the Project is necessary to promote the economic welfare of the community because the Lessee provides various financial services to the

community, in addition the Project will encourage the Lessee to develop the new job creation at an accelerated rate, which may not occur without such incentivization, or may occur on a significantly delayed timeframe, and/or the Project is reasonably necessary to preserve the competitive position of the applicant in its industry, and the Project will provide substantial increased employment and substantial capital investment to the community; if Agency financing or other assistance is disapproved, the Lessee would likely still proceed with the Project however on a significantly delayed timeframe; and that, therefore, Agency financing or other assistance is necessary to encourage the Lessee to proceed with the Project in the Town of Lockport; and

**WHEREAS**, the Agency has held a Public Hearing on the Project pursuant to Section 859-A of the General Municipal Law; and

**WHEREAS**, the Agency desires to encourage the Lessee with respect to the acquisition of the Premises and development of the Project, if by so doing it is able to induce the Lessee, to proceed with the Project in the Town of Lockport; and

**WHEREAS**, the Agency has determined that the Project be limited to the parcel located at 5810 South Transit Road, Lockport, New York (TAX MAP NO. 123.17-1-39);

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF LOCKPORT INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:**

Section 1. The Agency hereby determines that the acquisition of the Parcel and installation of the Project and the financing or other assistance thereof by the Agency pursuant to the New York State Industrial Development Agency Act will promote and is authorized by and will be in furtherance of the policy of the State as set forth in said Act. The Agency further hereby determines, on the basis of the Application for Incentives and supplemental information furnished by the Lessee that a deviation from the Agency's Uniform Tax Exemption Policy and Guidelines ("UTEF") is appropriate based on the following factors which may be considered by the Agency in making a determination to deviate from the UTEF guidelines pursuant to the Agency's UTEF, Section VII,: (a) The nature of the proposed project (the expansion of a not-for-profit organization headquartered in Niagara County which is the largest credit union in Western New York) promotes the economic welfare of the community; (b) The nature of the property before the project begins (an underutilized parking lot); (c) That the project will have an economic multiplying effect on the area in terms of job

growth, property development and due to the various financial services provided by the Lessee; (d) The extent that the project will create or retain permanent, private sector jobs, the number of the jobs to be created/retained and or the salary ranges of such jobs (26 retained and 10 newly created); (e) The estimated value of the tax exemptions provided as set forth in the application (Lessee seeking property tax abatement with a Payment in Lieu of Taxes only, and is not seeking mortgage recording fee abatement or sales tax abatement); (f) The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity is significant and beneficial to the Town's major economic corridor where the Project is located; (g) The project is likely to be completed in a timely fashion; (h) the effect of the proposed Project on the environment and surrounding properties is minimal as the Project is situated in an already previously developed area of the Town which was being underutilized; (i) the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located is significant due to the construction of an additional commercial structure on an otherwise underutilized parking lot; and (j) The extent to which the proposed Project will provide a benefit (economic, community or otherwise) not otherwise available within the Town of Lockport is great based on the expected accelerated job creation, the financial services offered by the Lessee to the local community and the various charitable endeavors and partnerships between the Lessee and many local institutions, as outlined in the Lessee's application. In addition, the Agency makes the following determinations: (i) it would not have assisted the Project except to induce the location of the Project in the area to be served by the Project as there is a demonstrable need for the Project and the services it offers; (ii) but for the availability of Agency assistance for the Project in such area, the Project may not be fully developed to promote job creation in a timely fashion; (iii) that the Project is reasonably necessary to preserve the competitive position of the applicant in its industry; and (iv) the Project will preserve and provide substantial employment and substantial capital investment. The Agency further determines, on the basis of the Lessee's Application for Incentives that (v) the Project as represented is reasonably necessary to provide the purposes of the Act, and (vi) the Project is an integral part of the Lessee's plan to proceed with the Project in the Town of Lockport.

Section 2. The Agency hereby authorizes the Lessee to proceed with the Project as herein authorized at a cost not to exceed \$4,850,000.00, together with the execution of a Lease Agreement between the Agency and the Lessee, a Leaseback



Agreement between the Agency and the Lessee, and any/all other agreements or instruments executed and delivered by the Agency in furtherance of this resolution, each in substantially the same form approved by the Agency for prior transactions or in form approved by the Chairman, Treasurer, Administrative Director, Secretary, Assistant Secretary, and any member or officer of the Agency, who are hereby authorized to execute, acknowledge, and deliver each such Instrument and the Chairman, Treasurer, Administrative Director, Secretary, and any member or officer of the Agency are hereby authorized to affix the seal of the Agency on each such instrument, as applicable, and attest the same, or in the alternative through a lease transaction. All other provisions of the Resolution relating to the Lease Agreement, shall apply to such Instruments.

All covenants, stipulations, obligations and agreements of the Agency contained in this resolution, the Lease Agreement between the Agency and the Lessee, and a Leaseback Agreement between the Agency and the Lessee, together with any/all other agreements or instruments executed and delivered by the Agency in furtherance of this resolution, shall be deemed to be the covenants, stipulations, obligations, and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations, and agreements shall be binding upon the Agency and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations, and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers, and privileges conferred and duties and liabilities imposed upon the Agency or the members thereof by the provisions of this Resolution, the Lease Agreement between the Agency and the Lessee, the Leaseback Agreement between the Agency and the Lessee, together with any/all other agreements or instruments executed and delivered by the Agency in furtherance of this resolution, as the case maybe, shall be exercised or performed by the Agency or by such members, officers, board, or body as may be required by law to exercise such powers and to perform such duties.

No covenants, stipulation, obligation, or agreement herein contained or contained in any mortgage financing, any UCC-1 Financing Statements, the Lease Agreement between the Agency and the Lessee, the Leaseback Agreement between the Agency and the Lessee, and any/all other agreements or instruments executed and delivered by the Agency in furtherance of this resolution shall be deemed to be a covenant, stipulation, obligation, or agreement of any member, officer, agency, or employee of the Agency in his individual capacity and neither the members of the

Agency or any officer executing the mortgage financing, the UCC-1 Financing Statements, the Lease Agreement between the Agency and the Lessee, the Leaseback Agreement between the Agency and the Lessee, and any/all other agreements or instruments executed and delivered by the Agency in furtherance of this resolution shall be liable personally thereon or be subject to any personal liability or accountability by reason of the execution and delivery thereof.

The Chairman, Treasurer, Administrative Director, Secretary, Assistant Secretary, and any member or officer of the Agency are hereby designated the authorized representatives of the Agency and each of them is hereby authorized and directed to execute and deliver any and all agreements, papers, instruments, opinions, certificates, affidavits, and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the execution and delivery of any mortgage financing, any UCC-1 Financing Statements, the Lease Agreement between the Agency and the Lessee, the Leaseback Agreement between the Agency and the Lessee, and any/all other agreements or instruments executed and delivered by the Agency in furtherance of this resolution.

Section 3. The provisions of Section 875 of the General Municipal Law which became effective on March 28, 2013 shall apply to this Project. In the event it is determined that an agent, project operator, or other person or entity obtained state sales and use exemptions benefits for which they were not entitled or which were in excess of the amount authorized or which are for property or services not authorized or taken in cases where such Lessee, its agents, project operators, or other person or entity failed to comply with a material term or condition to use property or services in the manner required by Agreements entered into between the Agency and the applicant with respect to the Project, the agent, project operator, or other person or entity shall comply with all the provisions of Section 875 and pay back to the Agency the amount of the state sales and use tax exemptions benefits that they obtained but were not entitled to.

Section 4. The Agency will undertake, as soon as it is furnished with sufficient information to use its best efforts to proceed, subject to agreement among the Agency and the Lessee as to terms in all agreements to be entered in to with respect to the Project.

Section 5. The Chairman, Administrative Director, Treasurer, Secretary, or Assistant Secretary, of the Agency and other appropriate officials or Board Members of the Agency and

its agents and employees are hereby authorized and directed to take whatever steps may be necessary to cooperate with the Lessee to assist in the acquisition of the Project.

Section 6. The Lessee is authorized to acquire the premises, and to utilize said premises for a manufacturing facility and machine shop specializing in assembly of wind turbines, and the future manufacture of wind turbine blades, for distributed wind turbines, together with an onsite wind turbine placement to generate power for the manufacturing facility, and to install machinery and equipment required in connection therewith; and to advance such funds as may be necessary to accomplish such purposes. The Agency is hereby authorized to enter into such agreements with the Lessee as the Chairman, or Administrative Director or other officer of the agency may deem necessary in order to accomplish the above.

Section 7. The Lessee has not applied for, and will not receive, exemptions relative to New York State and local sales and use tax in conjunction with the Project.

Section 8. Any such action heretofore taken by the Lessee in acquisition of the Project is hereby ratified, confirmed and approved.

Section 9. Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Lessee, whether or not the transaction is consummated. By acceptance hereof, the Lessee agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, officers, employees, and agents and hold the Agency and such persons harmless against claims for losses, damage or injury, or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Project and the financing thereof.

Section 10. This resolution is subject to Agency approval of payment in lieu of taxes agreement ("PILOT") for municipal services. Should the Lessee or any of its subtenants vacate the premises prior to the expiration of the arrangement for payment in lieu of taxes, the Lessee shall use its best efforts to obtain new subtenants, so that no application will be necessary for reduction in assessed value, it being the intent of the Agency that payments in lieu of taxes will be maintained at the level called for by its standard policy at all times while it holds a lease to the Project. The PILOT shall be for a period of 15 years with payments in lieu of taxes in accordance with an initial payment of 20% of the amount of Taxes the first two

years and 30% in years three and four; 40% in years five through nine; and 50% in years ten through fifteen.

Section 11. The provisions of this resolution shall continue to be effective until one year from the date hereof whereupon this resolution shall cease to be effective (except with respect to matters contained in Section 8 hereof) unless prior to the expiration of such period (a) the Agency shall by subsequent resolution extend the effective date of this resolution or (b) the Agency shall enter into Lease and Leaseback agreements or (c) the Lessee shall continue to take affirmative steps to secure financing for the Project, as determined in the sole discretion of the Agency.

Section 12. This resolution is also subject to (a) the acquisition of space suitable for the purpose authorized herein (b) approval by the Agency of any Sublease, if any, including any information that the Agency deems necessary to verify compliance with the New York State Industrial Development Agency Act and (c) provision in any Sublease for use of the Project only for those purposes specified above or otherwise permitted by the New York State Industrial Development Agency Act and approved by the Agency.

Section 13. The execution and delivery of a Lease or a Lease and Leaseback between the Agency and the Lessee, being substantially in the form approved by the Agency for prior transactions or in form approved by the Chairman, Administrative Director, or any member of the Board of Directors or the Agency attorney is hereby authorized. The appropriate officers of the Agency are hereby authorized to execute, seal, acknowledge, and deliver such agreement and any and all papers, instruments, opinions, certificates, affidavits, and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this resolution. The execution and delivery of each such instrument shall be conclusive evidence of due authorization and approval.

Section 14. The Agency hereby determines, based upon information furnished to the Agency by the Lessee and such other information as the Agency has deemed necessary to make this determination, that the Project does not require the preparation of additional environmental impact statement under the State Environmental Quality Review Act, being Article 8 of the New York State Environmental Conservation law, as the contemplated actions have been determined to not have a significant effect on the environment.

Section 15. The mortgage financing to be issued, if any, shall not be exempt from Federal Income Taxation. Therefore, this resolution is not subject to compliance with the provisions of Section 103 of the Internal Revenue Code of 1954 as amended (the "Code") or to an appropriate allocation under the State law pursuant to the Deficit Reduction Act of 1984.

Section 16. The Agency has made and makes no representation or warranty whatsoever, either express or implied, with respect to the merchantability, condition, environmental status, fitness, design, operation, or workmanship of any part of the Project, its fitness for any particular purpose, the quality or capacity of the materials in the Project, or the suitability of the Project for the Lessee's purposes or needs, or the extent to which proceeds derived from the mortgage will be sufficient to pay the cost of the acquisition, renovation, and installation of the Project. The Lessee is satisfied that the Project is suitable and fit for Lessee's purposes. The Agency shall not be liable in any manner whatsoever to anyone for any loss, damage, or expense of any kind or nature caused, directly or indirectly, by the Project property or the use or maintenance thereof or the failure of operation thereof, or the repair, service, or adjustment thereof, or by any delay or failure to provide any such maintenance, repairs, service, or adjustment, or by any interruption of service or loss of use thereof or for any loss of business howsoever caused and the Lessee hereby indemnifies and holds the Agency harmless from any such loss, damage or expense.

Section 17. This resolution is subject to compliance with all New York State Laws and local Town of Lockport Codes and building and zoning requirements.

Section 18. This resolution is subject to New York State Law regarding prevailing wages.

Section 19. This resolution shall take effect immediately.

Adopted January 12, 2023