TOWN OF LOCKPORT INDUSTRIAL DEVELOPMENT AGENCY
BOARD OF DIRECTORS

Meeting Minutes June 13th, 2024

Public Hearing - SIVA Wind: Chairman Fragale opened the public hearing at 8:02 am on the matter of a requested incentivization extension and amended application by SIVA Wind. Attorney Seaman read the notice and alerted the Board that he had sent notice to the related taxing jurisdictions. The project involves the construction of an @10,000 square foot building at 1060 Enterprise Dr. The amended application received by the IDA notes an increase in construction cost to @$4,592,000 and as such, revised inducement benefits. Mr. Fragale called on SIVA Wind principal Padma Kasthurirangan for a project update. There were no other speakers. The public hearing was closed at 8:13 am.

1.0 Roll Call

Present – Chairman Todd Fragale, Vice Chair Darlene DiCarlo, Treasurer Kristin Anderson, Secretary Jeanine Chatt, Board Members Robert Runk and Terry Kuczka. Legal Counsel – Tom Seaman, Administrative Director – Thomas Sy.
Excused - Dan Antkowiak.

CALL TO ORDER:

The regular June Board meeting was called to order at 8:16 am by Chairman Todd Fragale.

2.0 SECRETARY'S REPORT:

On a motion by Mr. Runk, seconded by Mr. Kuczka, the minutes of the May 9th Board Meeting were approved. Vote 6-yes, 0-, unanimous.

3.0 TREASURER'S REPORT:

Mrs. Anderson reviewed for the Board the May 31st financial statements. The review covered the Income Statement, Statement of Cash Transactions, and Balance Sheet. On the May Balance Sheet Mrs. Anderson noted total cash at $1,580,393.81. A question was raised as to when the remaining accrued liability for GM Litigation can be removed. It was noted the topic will be raised at the July Board meeting. On the Income Statement, Mrs. Anderson provided a general review of expenses and interest earned. The monthly deficit was $4,385.22 and the YTD deficit of $3,798.00. Mr Sy noted he continues to anticipate the receipt of Yahoo's final project fee payment for BF2.2 soon. As concerns the Statement of Cash Transactions, Mrs. Anderson noted the interest earned, and a closing cash balance of $1,580,393.00. On a motion by Mrs. Chatt, seconded by Mr. Runk, the report was approved as presented. Vote 6-yes, 0-no, unanimous.

Mrs. Anderson reviewed the monthly bills for June 13th that totaled $5,175.72. Mrs. Anderson made a motion to approve the payment of bills, seconded by Mrs. Chatt. Motion carried.

4.0 ADMINISTRATIVE DIRECTOR'S REPORT:

Mr. Sy reviewed highlights of his submitted report for the month May - early June.

Mr. Sy reported that they are operating fine in their relocated offices at 6445 Dysinger Rd. In addition, he was able to relocate the live streaming equipment to the Town Hall Meeting Room with the assistance of SynchroNet.

Mr. Sy reported that the Phase 1B Cultural Resources study fieldwork is complete with no findings noted. He is awaiting the final report from Deuel Archeology.

Mr. Sy reported on his attendance at the recent NYSEDC Annual Meeting in Cooperstown. He noted highlights from educational sessions on energy infrastructure, workforce housing, site selection and efficient green energy.

Mr. Sy recently attended a NYSCAR session at the Hyatt Place on commercial lending. Speakers included 2 regional banks and a credit union. All 3 noted they are actively lending including on green energy projects. Large commercial banks' absence was noteworthy.

Mr. Sy announced that construction should begin on Rail Trail Phase 2 the week of June 24th.

Mr. Sy reported the IDA was FOIL-ed as a part of a larger FOIL by the Investigative Post. The IDA has submitted its response.

Mr. Sy reported that he and Councilman Siejak represented the Town of Lockport and the IDA at Cornerstone FCU's ribbon cutting on their new branch and back-office complex. Remarks included appreciation for the IDA's support.

Mr. Sy distributed a copy of the recently completed rack card on the Town's three parks/trails. Local tourism representatives had noted a stronger interest in recreational opportunities as opposed to retail information on the existing rack card.

Lastly, Mr. Sy noted he had recently toured Pat Deering (Deering Landscape) through the IDA Park in anticipation of Deering completing the twice a year open parcel brush hogging. He shared a photo of the great job done on the Up North property. Mr. Sy noted they will add the bill for this service to the funds owed by Up North.

5.0 ATTORNEY'S REPORT:

Attorney Tom Seaman reviewed the resolution he had prepared on the Incentivization/Inducement Extension and Amended Application presented by SIVA Wind. Following the public hearing and brief discussion by the Board, a motion was made by Mrs. DiCarlo, seconded by Mr. Kuczka to approve the resolution as presented. Vote 6-yes, 0-, unanimous.

6.0 EXECUTIVE SESSION:

A motion was made by Mr. Runk to enter Executive Session for purposes of consultation with Attorney at 8:2 7am. The motion seconded by Mrs. DiCarlo. A motion was made by Mr. Runk to exit Executive Session at 8:50 am. The motion was seconded by Mrs. Chatt.

7.0 NEW BUSINESS:

8.0 NEXT MEETING:

The next meeting of the IDA Board is scheduled for 8:00 am on July 11th, 2024 and will be held in Town Hall.

9.0 ADJOURNMENT:

On a motion by Mr. Kuczka, seconded by Mrs. DiCarlo the Board voted to adjourn at 8:52 am. Vote 6-yes, 0-no, unanimous.

Respectfully submitted,

Jeanine Chatt
Secretary Town of Lockport IDA

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 (a.k.a. 1060 Junction Road), 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 (a.k.a. 1060 Junction Road), 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 had previously submitted an Application for Financial Assistance and other materials and information to the Agency and the Agency duly passed a resolution authorizing certain inducement of the Project on January 12, 2023, and

WHEREAS, the Lessee has now submitted an Amendment Application for Financial Assistance together with other materials and information to the Agency, including but not limited to the original Application for Financial Assistance (collectively hereinafter the "Application for Incentives") to initiate the accomplishment of the above; and

WHEREAS, the Application for Incentives 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 (a.k.a. 1060 Junction Road), 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 $4,592,000.00, which Project will be financed through mortgage financing in an amount not to exceed $4,592,000.00 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 $2,300,000.00, 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 $184,000.00.00. 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 _____, 2024