

TOWN OF LOCKPORT INDUSTRIAL DEVELOPMENT AGENCY

BOARD OF DIRECTORS

Meeting Minutes March 14th, 2019

8:00 AM Board Meeting – IDA Conference Room

1.0 **Roll Call**

Present –Chairman Eric Connor, Vice Chairman Todd Fragale, Secretary Harold Anderson, Board members Robert Runk, Thomas Sy, Legal Counsel –Brian Seaman and Daniel Seaman, Administrative Director – Marc Smith, Town Board Liaison Darlene DiCarlo.

Excused: Dan Antkowiak and Mrs. Sallie Reed

Members of the Public: Edmond Quinonnes, Alan Block, Joe Foltz, Frank Merkel from M&T Bank

2.0 **CALL TO ORDER:** The meeting was called to order by Chairman Connor at 8:00am.

2.1 **Public Hearing:** Chairman Connor opened the public hearing at 8:01am for the Custom Laser project as amended. The project is now 60,100 square feet with an approximate total expense of \$8,000,000.

The notice of public hearing was read by attorney Brian Seaman.

Gary Brockman – President of Custom Laser gave an update on the new project parameters. The building size has been decreased from 80,000 square feet to 60,100 square feet. The time and expense of moving the tube cutting machinery from Akron Road would cause too much of an interruption in the flow of product as required by his customers. To move the tube cutting machinery would take 12 weeks for each of the two tube machines, therefore, the current project calls for keeping the two tube cutting machines at Akron Road with the same hours of operation; primarily 6am – 3am daily.

There will be significantly less traffic, less noise and less nitrogen filling required at the Akron Road site as this location remains open.

Mr. Joe Foltz asked how the new plans for utilizing the Akron Road site might impact the neighborhood with their noise concerns. Mr. Brockman expects that there will be considerably less noise and less traffic at the site than currently exists. There will be fewer needed refills of the nitrogen tanks system as well.

Modern Disposal continues to be an issue with their pickup time for trash and recyclables at the site. Custom Laser continues to work with Modern Disposal to address this issue.

Mr. Alan Block asked when the new site may be opened. The project application calls for Custom Laser to have moved into the new IDA location by August 2020. Mr. Brockman confirmed that August 2020 would be the latest he would hope to have most production moved to the new facility in the IDA Park.

Mr. Foltz wanted to go on record as supporting the Custom Laser project at the IDA Park site.

There being no further comments Chairman Connor closed the public hearing at 8:15am.

3.0 SECRETARYS REPORT

On a motion by Mr. Sy seconded by Mr. Fragale the minutes of the February 21st, 2019 Finance and Audit Committee meetings were approved. Vote 3-yes, 0-no, unanimous. (Committee members Eric Connor, Todd Fragale, Harold Anderson who attended the meeting voted.)

On a motion by Mr. Runk seconded by Mr. Sy the minutes of the regular monthly meeting of February 21st, 2019 were approved. Vote 5-yes, 0-no, unanimous.

4.0 ADMINISTRATIVE DIRECTORS REPORT

A copy of the Administrative Directors report was provided to the members of the Board of Directors prior to the meeting.

The Administrative Director gave a brief overview of work accomplished during the month of February.

5.0 TREASURERS REPORT

Chairman Connor conducted a review of the financial reports dated 02/28/2019. On a motion by Mr. Sy seconded by Mr. Anderson the Board approved of the amended February 28th, 2019 financial statements. Vote 5-yes, 0-no, unanimous.

Chairman Connor reviewed the monthly bills. On a motion by Mr. Connor seconded by Mr. Runk the Board of Directors approved of the payment of bills dated February 28th, 2019. Vote 5-yes, 0-no, unanimous.

6.0 EXECUTIVE SESSION: On a motion by Mr. Fragale seconded by Mr. Runk the Board voted to enter executive session for the purposes of consultation with the attorney at 8:27 am. Vote 5-yes, 0-no, unanimous.

On a motion by Mr. Runk seconded by Mr. Sy the Board voted to come out of executive session at 8:51 am. Vote 5-yes, 0-no, unanimous.

6.0 ATTORNEYS REPORT:

The Attorney explained that during the month of February there was refinancing by the Basil Toyota project. The project qualifies for refinancing under the terms and conditions of their original PILOT agreement.

7.0 OLD BUSINESS: -

The Administrative Director asked that the IDA Board approve of the contract with WebEssentials to update the IDA's website. Improvements will include mobile device compatibility as well as PARIS updates. On a motion by Mr. Sy seconded by Mr. Fragale the board approved of the resolution for professional services by WebEssentials to update the IDA website with attorney approval. Amount not to exceed \$4,400.00. Vote 5-yes, 0-no, unanimous.

7.0 NEW BUSINESS:

Mr. Connor asked for further IDA Board comments on the Custom Laser project. With no further questions the board made the following resolutions.

SEQURA – Based on a review of the project by the Town Engineer Robert Klavoon the Board adopted the following declaration – negative declaration.

State Environmental Quality Review

**SUPPLEMENTAL FINDINGS STATEMENT
PROJECT EVALUATION FORM
For INDIVIDUAL PROJECTS**

**Lockport Industrial Park
Lockport, New York**

Pursuant to Article 8 (State Environmental Quality Review Act - SEQR) of the Environmental Conservation Law and 6 NYCRR Part 617.10, the Town of Lockport has evaluated the project listed below for conformance to the Generic Environmental Impact Statement (GEIS), approved January 17, 1984, and Findings Statement, issued February 9, 1984, prepared for the Lockport Industrial Park.

Under SEQR, one of the following determinations should be made for each individual development project within the Lockport Industrial Park:

1. No Further Review.

No further review under SEQR is necessary if it is determined that the current project conforms to the conditions and thresholds established in the GEIS and its Findings Statement completed February 9, 1984 for the Lockport Industrial Park.

2. New Findings.

If the current project or its potential impacts were adequately addressed in the January 17, 1984 GEIS for Lockport Industrial Park but, due to project changes, the current project is no longer adequately addressed in the February 9, 1984 Findings Statement, then an amended or new Findings Statement is necessary.

3. Negative Declaration.

If the current project was not adequately address in the January 17, 1984 GEIS, but is not likely to result in any significant environmental impacts, then a Negative Declaration must be prepared for the current project.

4. Supplemental FGEIS.

If due to project changes, newly discovered information, or other significant changes in circumstances, the January 17, 1984 GEIS is no longer applicable to the current project, then a Supplemental Final GEIS may be necessary, providing it is determined the proposed project may result in one or more significant adverse environmental impacts.

It is the purpose of this form to assist the Lead Agency in determining which of the above conditions applies to the current project. Any of the Findings and Conclusions described below that may no longer be relevant due to project changes or other changes in circumstances should be modified as appropriate.

NAME OF ACTION:

Phase: _____ Project Name: **Custom Laser manufacturing and office facility**

DESCRIPTION OF ACTION

Lockport Industrial Park:

The creation of a 515 acre industrial park and supporting facilities to be implemented and constructed over a 10 year, or greater, time span to promote the development of industry. The action also includes the creation of the Lockport Industrial Development Authority (LIDA) to monitor and encourage the development of the industrial park and the adoption of regulations to control the use and implementation of designated land.

Current Project Description:

+/- 75,000 manufacturing and office facility constructed in two phases

LOCATION

Lockport Industrial Park:

The project site is located in the western portion of the Town of Lockport bound by Upper Mountain Road, Junction Road, and Saunders Settlement Road, and the City of Lockport boundary.

Current Project:

Site or Lot No.: **108.00-1-34.111** *Street Address:* **1030 IDA Park Drive (4893)**

Does the location or geographic extent of the current project site differ from what was subject to SEQR review in the January 17, 1984 GEIS? yes / no If yes, how? **No**

AGENCY JURISDICTION

Lockport Industrial Park:

The Lockport Industrial Development Authority had jurisdiction over the creation of the Lockport Industrial Park in January 1984 and therefore, acted as SEQR Lead Agency. For each subsequent development project within the Lockport Industrial Park, the Town of Lockport Planning Board now has jurisdiction over site plan approval; whereas the LIDA previously had the authority of ensuring individual projects complied with the adopted regulations.

Current Action:

If the Planning Board, with the assistance of the LIDA, determines that the current project does not comply with the January 17, 1984 GEIS or February 9, 1984 Findings Statement for the Lockport Industrial Park, then SEQR must be re-opened for conditions 2, 3, or 4 as checked on page 1.

DATE OF KEY SEQR MILESTONES

Lockport Industrial Park:

GEIS: January 17, 1984

Findings Statement: February 9, 1984

Current Action:

SEQR Determination: _____

FACTS AND CONCLUSIONS RELIED ON TO SUPPORT THE DECISION

The original Findings issued February 9, 1984, considered the relevant environmental impacts, facts, and conclusions disclosed in the Final Generic Environmental Impact Statement (FGEIS). The Findings weighed and balanced relevant environmental impacts with social, economic, and other considerations, and provide a rationale for the LIDA's decision regarding environmental impacts associated with the proposed action. These findings also certify that the requirements of 6 NYCRR Part 617 have been met and certify that consistent with social, economic, and other essential considerations from among the reasonable alternatives available, the action chosen is the one which avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating, as conditions, those mitigation measures that were identified as practicable.

Pursuant to SEQRA, the LIDA completed a Full Environmental Assessment Form and sought and received concurrence from other Involved Agencies for the LIDA to be the Lead Agency in the consideration of this proposed action. The LIDA issued a Positive Declaration on March 10, 2003, requiring preparation of a Draft Generic Environmental Impact Statement (DGEIS). A DGEIS was completed and accepted for public review and comment on December 12, 1983, and a public comment period, which included a public hearing, followed the completion of the DGEIS. Comments were received from the public and various agencies during the public comment period and during a public hearing held December 29, 1983. Comments were summarized and responded to in the Final Generic Environmental Impact Statement (FGEIS), which was accepted on January 17, 1984.

FINDINGS AND CONCLUSIONS SUPPORTING THE DECISION

LAND RESOURCES - IMPACTS

Lockport Industrial Park:

Clay soils and shallow bedrock create drainage and construction problems that may require rock removal by blasting or other methods and on site retention of storm water runoff.

LAND RESOURCES - MITIGATION

- 1. Construction specification controls on any utility and individual site blasting require proof of insurance and securities against damage, and limitation on time-of-day occurrences.

Will blasting be required for any part of the current project: yes /

no

Not to the design engineer's knowledge (ADG)

If yes, does applicant have proper proof of insurance and securities: yes/ no

If yes, what mitigation measures will be used to limit impacts of blasting: _____

- 2. Appropriate stockpile sites for excess earthen material from excavation should be designated and maintained.

Describe the designation and maintenance of stockpiles for current project:

All excess earthen material will be stockpiled in a manner consistent with the NYSDEC SPDES General Permit for construction activity.

3. Rock out-croppings should be used as unique landscape features in site development, where practicable.

Will rock out-croppings be used for the current project: yes **no**

4. On-site retention may be required, including the use of grading, property line swales, parking areas, and setback areas in site development.

Describe on-site retention proposed for the current project:

Three (3) bio-retention ponds and a swale will collect sheet flow and stormwater from building roof leaders. Will feed Town of Lockport stormwater collection system.

LAND RESOURCES - FINDINGS

With the identified mitigation already implemented and being implemented with the project, there will be no significant impacts to land resources.

WATER RESOURCES - IMPACTS

Lockport Industrial Park:

The site is located at the headwaters of tributaries to two creeks, and construction of the site may potentially impact the quality and/or quantity of runoff to the headwaters.

WATER RESOURCES - MITIGATION

1. There are no regulated floodplains and no Federal and/or State regulated wetlands identified on the site at the time of the GEIS. Wetlands regulations have changed since the acceptance of the GEIS on January 17, 1984.

There is an existing ditch along the southern property line that appears to be an USACE wetland. This existing ditch will not be disturbed during construction or otherwise affected by proposed project.

2. Adequate stormwater detention will be required to mitigate downstream capacity limitations and reduce potential storm runoff problems. Stormwater retention will be used to mitigate water quality concerns.

Describe stormwater retention proposed for the current project:

There is a swale and three (3) bio-retention pond systems designed to handle the capacity of the sheet flow and the water from the roof drain leaders. Will feed Town of Lockport stormwater collection system. All proposed designs will be NYSDES SPDES compliant.

3. Establishment of proper drainage during construction including siltation ponds, site dykes/ hay bales, vegetative cover, and any other site improvements to reduce impacts on the drainage system.

Describe erosion and sedimentation controls proposed for the current project:

The proposed erosion and sediment control plan is provided in the construction documents. All soil erosion and sediment controls will be NYSDEC SPDES compliant.

WATER RESOURCES - FINDINGS

With the identified mitigation already implemented and being implemented with the project, there will be no significant impacts to water resources.

AIR QUALITY - IMPACTS

Lockport Industrial Park:

Fugitive dust and CO violations may occur during construction.

AIR QUALITY - MITIGATION

1. Fugitive dust should be controlled during construction utilizing site suppression techniques (water, sweeping, and early vegetative cover), limits to site stripping, time-of-day limits for operation of equipment, and Town monitoring impacts.

Describe the dust suppression techniques proposed for the current project:

The general contractor shall be responsible for the control of the dust during construction.

2. Industrial emission sources will be controlled by NYSDEC/ Niagara County Health Department Air Quality Permit and Enforcement Program.

Does the current project require a NYSDEC Air Quality Permit: yes /

no

If yes, describe industrial emission controls to be incorporated into the project: **Not to the design engineer's knowledge (ADG)**

AIR QUALITY - FINDINGS

With the identified mitigation already implemented and being implemented with the project, there will be no significant impacts to air quality.

TRAFFIC - IMPACTS

Lockport Industrial Park:

Anticipated traffic volumes of up to 20,000 vehicles per day will require improvements to intersections on State Route 31 - Saunders Settlement Road (at SR 93 -Upper Mountain Road and SR 270 - Campbell Boulevard). Although serious highway traffic limitations are not expected, the committed Lockport Expressway terminus to SR 31 will relieve expected congestion on City streets. No impact is expected during the first half of development.

Current traffic volumes on SR 31 are around 10,000 vehicles per day (2007). The Lockport Expressway terminates at Millersport Highway in the Town of Amherst and is no longer proposed to extend to SR 31.

TRAFFIC - MITIGATION

1. Improvements to intersections along SR 31 are required when traffic volumes reach 20,000 vehicles per day.

What is the trip generation for current project: 100 Trips.

Does the current project warrant improvements to SR 31: yes /no

If yes, describe improvements

proposed: No improvements to SR 31 are warranted or provided.

Has the New York State Department of Transportation accepted the proposed improvements: yes / no

2. Interior circulation access to SR 31 should be provided to mitigate potential traffic impacts on SR 93 and SR 270.

Does the current project warrant construction of the interior circulation access to SR 31:

yes / no

Not to the design engineer's knowledge (ADG)

If yes, describe the proposed improvements to the interior circulation access: _____

TRAFFIC - FINDINGS

With the identified mitigation already implemented and being implemented with the project, there will be no significant traffic impacts.

LAND USE - IMPACTS

Lockport Industrial Park:

Impacts to adjacent residential uses, agricultural land, and the acquisition/ relocation/ redevelopment of twenty structures are anticipated, mostly in the southern portion of the site. Only 3.1% of the farmland is considered valuable, and total affected acreage is less than 1% of Niagara County land.

LAND USE - MITIGATION

1. Adoption of the Concept Plan of the Lockport Industrial Park to guide development and infrastructure.

Does the current project comply with the current Concept Plan: yes
no

If no, does the current project propose an amendment to the Concept Plan: yes / no

2. Adoption of the Regulations and Restrictions for the Lockport Industrial Park (Article V-C of the Town Zoning Ordinance) for review and control of land in the park.

Does the current project comply with the current Regulations as outlined in the Zoning Ordinance: yes / no

If no, describe any waivers or variances that will be requested: _____

3. Limitation of lot coverage on parcels within the Industrial Park to a maximum 50% of total lot area.

Does the current project comply with the open space requirements: yes / no

4. The phasing of park development to distribute potential impacts.

What is the extent of park build out resulting from the current project: 6.9 acres of the 515 acres (1.34%)

5. The use of buffering and location assistance to minimize impact to adjacent land.

Amount of agricultural land to be impacted by current project:
0 Acres

Buffering or other screening proposed for current project:
No buffering / screening is required or proposed.

6. The LIDA will assist in relocation and the negotiation of compensation for properties acquired by condemnation in accordance with Federal regulations.

Does the current project require any relocating of residences or condemnation of property: yes / no

If yes, relocation and condemnation assistance proposed for current project: _____

LAND USE - FINDINGS

With the identified mitigation already implemented and being implemented with the project, there will be no significant impacts to land use.

SANITARY SEWERS - IMPACTS

Lockport Industrial Park:

The proposed Lockport Industrial Park will generate 0.16 million gallons per day (MGD) of sanitary sewage, initially, and 1.0 (MGD) eventually into the Gulf Interceptor, which is limited in wet weather flows, and the

City of Lockport Wastewater Facility which possesses adequate reserved capacity (3.2 MGD) for the project.

SANITARY SEWERS - MITIGATION

1. In 1998, a new 8-inch diameter force main was constructed from approximately 1,200 linear feet north of Enterprise Drive south across Road 7 to an existing gravity manhole south of the Lockport Co.- Generation Facility. This new force main provides sufficient capacity for future development within the Lockport Industrial Park.

Provide estimates of anticipated wastewater discharge:
50 employees at 25 gallons for 1,250 gallons per day.

Describe proposed flow monitoring for current project:

Does the project require additional sewer mitigation: yes no

If yes, describe sewer improvements proposed with the current project: _____

SANITARY SEWERS - FINDINGS

With the identified mitigation already implemented and being implemented with the project, there will be no significant impact to sanitary sewers.

VISUAL RESOURCES - IMPACTS

Contrasts with the rural character of the surrounding area (except the City on the east border) require buffering, design control, adequate landscaping, and proper orientation of development to minimize visual impacts of industrial uses.

VISUAL RESOURCES - MITIGATION

1. Buffering, design control, adequate landscaping, and proper orientation of development to minimize visual impacts of industrial uses.

Describe buffering and other mitigation proposed for the current project: _____

Visual resources shall exceed requirements set forth by the Town of Lockport Code of Ordinances.

2. The wooded area of the Industrial Park along Saunders Settlement Road should be reserved for passive recreation, drainage retention, and/or open space to provide a unique aesthetic/ landscape feature and preserve the woods.

Does the current project impact the wooded area along Saunders Settlement Road: yes no

If yes, describe mitigation measures proposed to minimize impacts to the wooded area and/or provide passive recreation opportunities: _____

VISUAL RESOURCES - FINDINGS

With the identified mitigation already implemented and being implemented with the project, there will be no significant visual resource impacts.

NOISE - IMPACTS

Lockport Industrial Park:

An increase in ambient noise levels around the site is anticipated.

NOISE - MITIGATION

1. Buffering and construction controls, including time-of-day limitations on construction, will be required to mitigate noise.

Describe noise mitigation proposed for current project:

Heavy construction activities shall be limited to 0700 to 1700.

NOISE - FINDINGS

With the identified mitigation already implemented and being implemented with the project, there will be no significant noise impacts.

ENERGY - IMPACTS

Lockport Industrial Park:

An increase in the use of energy due to development of the site is anticipated.

ENERGY - MITIGATION

1. Where feasible, the alternative use of energy resources and technologies will be encouraged in site development and design, including solar energy, wind capture, geothermal, and industrial cooling recycling.
2. Park layout and lot subdivisions shall take advantage of solar tempering, where practicable, to gain energy efficiency and conservation.

Describe the energy conservation measures and alternative energy sources proposed for the current project:

The project architect is researching the feasibility of applying performance-based design for energy compliance of the building.

ENERGY - FINDINGS

With the identified mitigation already implemented and being implemented with the project, there will be no significant energy impacts.

UNAVOIDABLE AND IRREVERSIBLE IMPACTS

Lockport Industrial Park:

The following adverse impacts may be unavoidable and irreversible:

1. Conversion of vacant, open land for development of the Industrial Park.
2. Temporary increase in fugitive dust due to construction of the project.
3. Increase in the levels of car and truck traffic in the vicinity of the project site.
4. Temporary increases in noise associated with construction activities and operation of the business.
5. Increase in the amount and flow of wastewater to the municipal wastewater system.
6. Long-term change in the character and aesthetic appearance of the project site and vicinity.
7. Minimal increase in energy usage due to construction and operation of the development.

Current Project:

In addition to the unavoidable and irreversible impacts listed above that are associated with the overall Lockport Industrial Park project, the following unavoidable and irreversible impacts may also be anticipated with the current project:

1. _____

2. _____

3. _____

CUMULATIVE IMPACTS

TRAFFIC

The Lockport Industrial Park GEIS considered the cumulative impacts of stormwater runoff, air quality, traffic, wastewater, and noise. The Findings Statement required phasing of the park development in four phases to distribute the potential impacts of construction of the park. The Findings Statement also requires monitoring of these impacts as phases of the park are built out to determine the cumulative impacts.

SECONDARY IMPACTS

Since the current project is not tied to a larger plan, action, or program, the cumulative impacts of other related projects are not considerable. However, the secondary impacts of this proposed project action include:

1. Increased demand for municipal services.
2. Positive secondary impacts on local economy.

THRESHOLDS

Lockport Industrial Park:

As a Generic Environmental Impact Statement, the Findings Statement issued in February 9, 1984 set forth specific conditions and/or criteria under which future actions (site development plans) would be approved. Conditions were set forth for each impact. Thresholds were established where subsequent SEQR assessment or a Supplemental EIS will be necessary to evaluate specific site or project impacts that were not adequately addressed in the Generic EIS either because of lack of project detail or due to project change. For the proposed Lockport Industrial Park, there are two areas where thresholds were specified.

TRAFFIC

The Findings Statement states that when traffic volumes on State Route 31 reach 20,000 vehicles per day, improvements to intersections on State Route 31 (at SR 93 and SR 270) will be required. The extension of interior circulation access to SR 31 should be provided, when necessary, to mitigate potential traffic impacts on SR 93 and SR 270.

Current Project:

What is the anticipated trip generation of the current project:

100 Trips.

Does the current project exceed the thresholds established in the February 9, 1984 Findings Statement? yes (no.)

If yes, describe improvements proposed for SR 31: _____

Has the New York State Department of Transportation accepted the proposed improvements: yes / no (NA)

Does the current project warrant construction of the interior circulation access to SR 31:

yes no

If yes, describe the proposed improvements to the interior circulation access: _____

WASTEWATER

Lockport Industrial Park:

The Findings Statement of February 9, 1984 states that each project will be required to provide estimates of anticipated wastewater discharges to the sewer system and be monitored to insure the adequacy of facilities. Subsequent phases can be accommodated via improvements in either the Upper Mountain Road pumping capacity (with additional force main), or reconstruction of 700 feet of gravity sewer on Sunset Drive (1.15 MGD total capacity and 1.10 MGD reserve). Development of the rest of the park will require flow monitoring and improvements to the upstream sections of The Gulf Interceptor or, alternatively, a tie-in to Niagara County Sewer District No. 1 to accommodate additional flows.

Since the acceptance of the Findings Statement on February 9, 1984, the following wastewater improvements have been made:

In 1998, a new 8-inch diameter force main was constructed from approximately 1,200 linear feet north of Enterprise Drive south across Road 7 to an existing gravity manhole south of the Lockport Co.-Generation Facility. This new force main provides sufficient capacity for future development within the Lockport Industrial Park.

Current Project:

Provide estimates of anticipated wastewater discharge: 1,250 GPD

Describe proposed flow monitoring for current project:

Does the project require additional sewer mitigation: yes no

If yes, describe sewer improvements proposed with the current project: _____

CERTIFICATION OF FINDINGS TO APPROVE

**Supplemental Findings for
Individual Development Projects in
Lockport Industrial Park**

Having considered the Draft and Final Generic EIS, and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 N.Y.C.R.R. 617.11, this Statement of Findings certifies that:

1. The requirements of 6 N.Y.C.R.R. Part 617 have been met;

2. Consistent with the social, economic, and other essential considerations from among the reasonable alternatives available, the action is one which avoids or minimizes adverse environmental effects to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized by incorporating as conditions to the decision those mitigation measures which were identified as practicable.

Lockport Industrial Development

Authority

Name of Agency

Town of Lockport Industrial Development Agency

Signature of Responsible Official

Name of Responsible Official

Chair

Title of Responsible Official

Date

6560 Dysinger Road, Lockport, New York 14094

Address of Agency

8.0 Mr. Connor then asked for any further questions on the Inducement for the Custom Laser project. There being no further questions on a motion by Mr. Anderson seconded by Mr. Fragale the board voted to approve of the following resolution.

RESOLUTION OF THE TOWN OF LOCKPORT INDUSTRIAL DEVELOPMENT AGENCY (THE AGENCY) AUTHORIZING CUSTOM LASER, INC. (THE LESSEE) FOR THE ACQUISITION OF 4885 IDA PARK DRIVE, LOCKPORT, NEW YORK (TAX MAP NO. 108.00-1-34.111) AND CONSTRUCTION OF AN APPROXIMATELY 60,100 SQUARE FOOT BUILDING AND FACILITY THEREON TO BE USED AS A MANUFACTURING FACILITY AND MACHINE SHOP SPECIALIZING IN LASER MARKING/ENGRAVING, LASER CUTTING, MACHINING, PRECISION FORMING, LEVELING/STRESS RELIEVING, WELDING/FABRICATING, AND POWDER COATING, 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, Custom Laser, 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 4885 IDA Park Drive, Lockport, New York and construction of a 60,100 +/- square foot building thereon (the premises) and to utilize said building for a manufacturing facility and machine shop specializing in laser marking/engraving, laser cutting, machining, precision forming,

leveling/stress relieving, welding/fabricating, and powder coating (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 Project for manufacturing facility and machine shop specializing in laser marking/engraving, laser cutting, machining, precision forming, leveling/stress relieving, welding/fabricating, and powder coating and related purposes with resultant increase in employment in the Town of Lockport; the Lessee will employ approximately five new full-time employees after the Project is fully completed and will retain fifty-three additional full-time employees; 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 although the project may 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 other facility 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 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 4885 IDA Park Drive, Town of Lockport, New York (Tax Map No. 108.00-1-34.111);

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

Section 1. The Agency hereby determines that the acquisition 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 although the project may 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 other 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 \$8,000,000.00, which Project will be financed through mortgage financing in an amount not to exceed \$8,000,000.00 through a bank to be designated, UCC-1 Financing Statements to the Lender, and a Lease Agreement between the Agency and the Lessee 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 and the Lease Agreement 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, and the Lease Agreement, 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, and the Lease Agreement or any other agreement or instrument 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, and the Lease Agreement 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, and the Lease Agreement.

Section 3. The provisions of the new 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, the Lessee and as to terms in all agreements to be entered in to with respect to the Project, undertake as soon as particular terms and conditions of a Lease Agreement are determined to enter into a lease only transaction.

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 MANUFACTURING FACILITY AND MACHINE SHOP SPECIALIZING IN LASER MARKING/ENGRAVING, LASER CUTTING, MACHINING, PRECISION FORMING, LEVELING/STRESS RELIEVING, WELDING/FABRICATING, AND POWDER COATING and related activities, and 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 \$2,000,000.00, 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 \$160,000.00. 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 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 through five; 40% in years six through ten; and 50% in years eleven 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 a lease only transaction or (c) the Lessee shall continue to take affirmative steps to secure financing for the Project.

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 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 an 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 will 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 local building and zoning requirements.

Section 18. This resolution shall take effect immediately.

Adopted March 14, 2019

Roll Call vote.	Mr. Anderson	- yes
	Mr. Fragale	- yes
	Mr. Sy	- yes
	Mr. Runk	- yes
	Mr. Connor	- yes
	Unanimous	

9.0 NEXT MEETING:

The next meeting date will be Thursday April 11th, 2019 at 8:00 am.

10.0 ADJOURNMENT:

On a motion by Mr. Sy seconded by Mr. Runk, the Board voted to adjourn at 9 am.
Vote 7-yes, 0-no, unanimous.

Respectfully submitted,
Harold Anderson - Secretary