

RESOLUTION OF THE TOWN OF LOCKPORT INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF INSTALLMENT SALE AGREEMENTS OR LEASE AGREEMENTS, OR LEASE SALES AGREEMENT WITH YAHOO! INC. AND OTHER INSTRUMENTS AND MATTERS IN CONNECTION THEREWITH.

WHEREAS, Town of Lockport Industrial Development Agency (the "Agency"), is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, (collectively, the "Act"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, civic and commercial research facilities, and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, YAHOO! INC. (the "Company"), has entered into negotiations with officials of the Town of Lockport Industrial Development Agency (the "Agency") with respect to the continued acquisition and installation of replacement machinery, equipment and tangible personal property over a 20 year period at its facility to be constructed at 5319 Enterprise Drive, Lockport, New York, consisting of up to approximately 190,000 square foot building(s), all for the operation of a data center (the "Project"); and

WHEREAS, the Company submitted an Eligibility Questionnaire to the Agency to initiate the accomplishment of the above; and

WHEREAS, the Eligibility Questionnaire sets forth certain information with respect to the Company, including the following: that the Company desires Agency financing to acquire, install and operate the Project for a data center with resultant increase in employment in the Town of Lockport; that the Company estimates that approximately 75 full time persons will be employed at the Project location after it is fully completed; that but for Agency participation in the Project, the Company would not locate the Project and expand its business and employment within the Town of Lockport; and the Project will provide substantial increased employment and substantial capital investment; if Agency participation in the Project is not approved, the Company would likely not proceed with the Project; and that, therefore, Agency participation is necessary to encourage the Company to proceed now 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 further desires to further encourage the Company with respect to the acquisition, installation and operation of the Project, if by so doing it is able to induce the Company to proceed now with the Project in the Town of Lockport; and

WHEREAS, the Agency purposes to obtain the aforementioned benefits and to accomplish the purposes of the Act by inducing the Company to acquire and install the Project as agent for the Agency and subsequent Installment Sale thereof to the Company or Lease Agreement with the Company, or Lease Agreement with subsequent sale thereof to the Company, for its use for a data center at its proposed facility as aforesaid;

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

Section 1. The Agency hereby determines that the acquisition, installation and operation of the Project and participation therein 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 Eligibility Questionnaire of the Company and supplemental information furnished by the Company, as follows: (a) it would not have participated in 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 Agency participation in the Project in such area, the Project would not be economically feasible; (c) there will be no substantial adverse disruption of existing employment of facilities of a similar nature to the Project in such area; and (d) the Project will provide substantial employment and substantial capital investment. The Agency hereby determines, that: (a) the Project as represented is reasonably necessary to promote the purposes of the Act; (b) the Project is an integral part of the Company's plan to maintain and expand its business in the Town of Lockport.

Section 2. To accomplish the purposes of the Act, the Agency hereby authorizes the Company to proceed with the Project as herein described. The Agency is authorized, subject to the provisions of this Resolution, to acquire title to the replacement machinery, equipment and tangible personal property over a period of twenty years at a cost not to exceed \$2,500,000,000 at the Project location and to enter into an Installment Sale Agreement or a series of Installment Sale Agreements or a Lease Agreement or a series of Lease Agreements or a Lease Sale Agreement or a series of Lease Sales Agreements with the Company therefor and such other documents and instruments as may be necessary in order to consummate the transaction contemplated by the Resolution.

Section 3. The execution and delivery of the Installment Sale Agreements or a Lease Agreement or a series of Lease Agreements or a Lease Sale Agreement or a series of Lease Sales Agreements and such other documents and instruments as may be necessary in order to carry out the purposes of this Resolution, each being substantially the form approved by the Agency for prior transactions or approved by the Administrative Director, Chairman, Vice-Chairman or Assistant Secretary is hereby authorized. The Chairman, Vice-Chairman or Assistant Secretary of the Agency are hereby authorized to execute, acknowledge and deliver each such Instrument and to affix the seal of the Agency on each such Instrument, as applicable, and attest to the same. The execution and delivery of each such document by said officer shall be conclusive evidence of due authorization and approval.

Section 4. All covenants, stipulations, obligations and agreements of the Agency

contained in this Resolution and in the Installment Sale Agreement or series of Installment Sale Agreement or a Lease Agreement or a series of Lease Agreements or a Lease Sale Agreement or a series of Lease Sales Agreements and other documents and instruments 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 Installment Sale Agreement or series of Installment Sale Agreements or a Lease Agreement or a series of Lease Agreements or a Lease Sale Agreement or a series of Lease Sales Agreements or other documents and instruments 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 the Installment Sale Agreement or series of Installment Sale Agreements or a Lease Agreement or a series of Lease Agreements or a Lease Sale Agreement or a series of Lease Sales Agreements or other documents and instruments shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his individual capacity.

Section 5. The Agency is hereby authorized to acquire, install and provide the Project, all as particularly authorized by the terms and provisions of the Installment Sale Agreement or series of Installment Sale Agreements or a Lease Agreement or a series of Lease Agreements or a Lease Sale Agreement or a series of Lease Sales Agreements. Any action heretofore taken by the Company in initiating the acquisition and installation of the Project on behalf of the Agency is hereby ratified, confirmed and approved. The proper officers of the Agency are hereby authorized to accept title to the Project.

Section 6. The Administrative Director, Chairman, Vice Chairman, Secretary and Assistant Secretary and any member 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 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.

Section 7. Any expenses incurred by the Agency with respect to the Project shall be paid or reimbursed by the Company whether or not the transaction contemplated by this Resolution is completed, unless through the fault of the Agency. By acceptance hereof, the Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, employees and agents and hold the Agency and such 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.

Section 8. The provisions of this Resolution shall continue to be effective until one year

from the date hereof whereupon the Agency may, at its option, terminate the effectiveness of the Resolution (except with respect to the matters contained in Section 7 hereof) unless prior to the expiration of such period (a) the Agency shall by subsequent resolution extend the effective period of this Resolution, or (b) the Company shall be continuing to take affirmative steps satisfactory to the Agency to complete the transaction contemplated by this Resolution, or (c) Company shall have commenced construction of the building(s) at 5319 Enterprise Drive, Lockport, New York, or a portion thereof.

Section 9. The Agency hereby determines, based upon information furnished to it by the Company and such other information as the Agency deemed necessary to make this determination, that the Project constitutes a Type II Action under the State Environmental Quality Review Act and does not require the preparation of an Environmental Impact Statement under the State Environmental Quality Review Act as the contemplated action will not have a significant effect on the environment.

Section 10. This Resolution supercedes and replaces for all purposes the prior Resolution of this Board adopted on August 13, 2009.

Section 11. This resolution shall take effect immediately.

ADOPTED: September 10, 2009

State of New York

ss:

County of Niagara

I, the undersigned, Assistant Secretary of the Town of Lockport Industrial Development Agency, DO HEREBY CERTIFY that (i) I have compared the annexed extract of the minutes of the meeting of the Town of Lockport Industrial Development Agency (the "Issuer") held on September 10, 2009, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Issuer and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I, FURTHER CERTIFY that (j) all members of the Issuer had due notice of such meeting, (ii) pursuant to Section 99 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 99, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Issuer this _____ day of _____ 20_____.

Daniel E. Seaman, Assistant Secretary

TOWN OF LOCKPORT INDUSTRIAL DEVELOPMENT AGENCY

Town of Lockport IDA Meeting Minutes of September 10, 2009 9:00 AM – IDA Conference Room

1.1 Roll Call – Meeting on September 10, 2009

Present: Acting Chairman - Paul Haber, Treasurer – Robert Lipp, Duncan Carlson, Thomas Weeks, Thomas Sy, Administrative Director – David Kinyon, Legal Counsel – Daniel Seaman and Lewis Staley – Lockport Energy Associates. In the absence of Secretary Patricia Dufour, Mr. Kinyon served as Acting Secretary.

Absent: Alan Hamilton, Patricia Dufour.

The meeting was called to order at 9:00 a.m. by Acting Chairman, Paul Haber.

1.2 Reading and approval of minutes from August 13, 2009. A motion was made to approve the minutes by Duncan Carlson seconded by Robert Lipp. Approved.

1.3 Report of Treasurer was given by Robert Lipp for August financials. Mr. Lipp noted the Agency's improved cash position as reflected in the Balance Sheet. Mr. Lipp brought Board's attention to the Notes section on the Income Statement, and made particular mention of the Transactions. Surplus funds have been moved from Certificates of Deposit to Savings due to the poor interest rates paid on CDs. A motion was made to approve the report by Thomas Sy seconded by Duncan Carlson. Approved.

1.4 Approval of invoices and bills for September 10, 2009. A motion was made to accept the report by Thomas Sy and seconded by Duncan Carlson. Approved.

Executive Session – A motion was made by Robert Lipp, seconded by Thomas Sy to move to executive session for purposes of consultation with legal counsel. Approved. A motion was made by Thomas Sy, seconded by Thomas Weeks to come out of executive session. Approved.

Report of Committees – nothing to report

ADMINISTRATIVE DIRECTOR'S REPORT

David Kinyon presented his monthly report.

3.1 David Kinyon requested authorization to attend the "Revitalizing New York" meeting October 7 in Schenectady. A motion was made by Duncan Carlson seconded by Thomas Weeks for the IDA to reimburse Mr. Kinyon for registration, hotel, meals and travel expenses in connection with this program. Approved.

- 3.2 David Kinyon presented a recommendation for the IDA to advertise in the "Business First" Signature Section sponsored by Buffalo Niagara Enterprise at a cost of \$2,795; he suggested that part of the cost could be covered by the unexpended funds budgeted for Advertising & Promotion plus the unexpended funds expected to be remaining from the Business Showcase.
- 3.3 ADVANCE/NY- David Kinyon distributed a copy of this publication, which featured an article "Investing time and energy a quarter century ago pays off for Lockport IDA", profiling the significance of the GEIS for the Lockport Industrial Park that expedited the approval process for Yahoo!

Old Business

- 4.1 Yahoo! Data Center – Dan Seaman presented a revised resolution to exempt up to \$2.5 billion in purchases from Sales Tax. A motion was made by Duncan Carlson, seconded by Thomas Weeks to accept the resolution as presented. Roll Call Vote:

THOMAS SY, voting AYE

ROBERT LIPP, voting AYE

THOMAS WEEKS, voting AYE

DUNCAN CARLSON, voting AYE

PAUL HABER, voting AYE

No Nays.

Daniel Seaman also reported that the closing documents for the lease lease-back agreement with Contracts Unlimited had been concluded September 3, 2009. He is in the process of closing two other agreements, as well as the acquisition of two properties previously approved by the Board.

Adjournment – There being no further business, a motion to adjourn was made by Duncan Carlson seconded by Thomas Weeks. Approved.

The meeting was adjourned at 10:30 AM.

The next meeting will be held October 9, 2009 at 9:00 AM at the IDA conference room.

Respectfully Submitted,

David R. Kinyon, Acting Secretary