

A regular meeting of the Town of Clifton Park Industrial Development Agency was convened in public session at the offices of the Clifton Park Town Hall, One Town Hall Plaza, in the Town of Clifton Park, New York on May 2, 2022 at 7:00 o'clock p.m., local time.

The meeting was called to order by the Chairman and, upon roll being called, the following were:

PRESENT:

Jonathan Schopf	Chairman
Todd Hess	Member
Daniel Fariello	Member
Sheila Barkevich	Member
Joshua O'Leary	Member
Derek Brown	Member

ABSENT:

ALSO PRESENT:

Melissa C. Yager	CEO
Thomas Gibbs	CFO
Jean M. Mahserjian, Esq.	Agency Counsel
James A. Carminucci, Esq.,	Special Counsel

The following resolution was offered by \_\_\_\_\_, seconded by \_\_\_\_\_, to wit:

RESOLUTION GRANTING FINAL APPROVAL TOWARD THE PROVIDING OF FINANCIAL ASSISTANCE BY THE TOWN OF CLIFTON PARK INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT TO A PROJECT CONSISTING OF THE ACQUISITION, CONSTRUCTION, AND INSTALLATION OF AN APPROXIMATELY 24,000 SQUARE FOOT MANUFACTURING AND DISTRIBUTING FACILITY ON WOOD ROAD IN THE TOWN OF CLIFTON PARK, SARATOGA COUNTY, NEW YORK, UPON APPLICATION OF SOLAR FOUNDATIONS USA, INC. AT A TOTAL PROJECT COST OF \$4,291,765, MAKING A DETERMINATION UNDER THE NYS ENVIRONMENTAL QUALITY REVIEW ACT WITH REPESECT TO THE PROJECT, APPOINTING SOLAR FOUNDATIONS USA, INC. AND MUNTER ENTERPRISES, INC. AGENTS OF THE AGENCY FOR PURPOSES OF UNDERTAKING THE PROJECT AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS RELATING THERETO.

WHEREAS, the Town of Clifton Park Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of the State of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of the State of New York, as amended (the "Enabling Act"), and Chapter 630 of the 1980 Laws of the State of New York, as amended, constituting Section 925-p of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

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

GMS Realty, LLP, a Vermont limited liability partnership having an address of 356 Rathe Road, Colchester, Solar Foundations USA, Inc., a Delaware corporation company having an address of 1142 River Road, New Castle, Delaware 19720 (the “Applicant”), has requested that the Agency undertake a project (the “Project”) consisting of (A) (1) the acquisition of an interest in an approximately 2.75 acre parcel of land constituting a portion of tax map parcel 259.-2-74.2 and located on Wood Road in the Town of Clifton Park, New York (the “Land”) (2) the construction on the Land of an approximately 24,000 square foot light industrial and warehousing facility (the “Facility”) to be utilized by the Applicant in the manufacturing and distribution of ground mount solar panel support structures and for corporate offices and (3) the acquisition and installation in the Facility of certain machinery and equipment (the “Equipment” and together with the Land and the Facility, collectively the “Project Facility”) (B) the lease (with the obligation to purchase) or the sale of the Project Facility to the Applicant or such other person as may be designated by the Applicant and agreed upon by the Agency and (C) the providing by the Agency of certain “financial assistance” (as defined in the Act) in the form of exemptions from mortgage recording tax, state and local sales tax and real property taxes; and

WHEREAS, the Applicant has estimated that the total cost of the Project will equal \$4,291,765.00; and

WHEREAS, the Agency, on January 13, 2022 following the holding of a public hearing granted preliminary approval for the undertaking of the Project subject to, among other items, compliance by the Agency with Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of the State of New York, as amended, and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the “SEQR Act”); and

WHEREAS, the Agency has been advised that financing for the Project will be provided by a loan or loans in the aggregate principal amount of approximately \$3,854,700 (the “Loans”) from M&T Bank (the “Lender”) to the Company; and

WHEREAS, in order to consummate the aforesaid Project, the Agency has been requested to enter into (a) an underlying lease agreement (the “Underlying Lease”) by and between the Company and the Agency (the “Underlying Lease”), (b) a lease agreement (the “Lease Agreement”) by and between the Agency and the Company (the “Lease Agreement”), which among things, will obligate the Applicant to comply with the provisions of Attachment A hereto with respect to third party leases of the Facility, (c) a payment in lieu of tax agreement (the “PILOT Agreement”) by and between the Agency and the Company; (d) a project agreement (the “Project Agreement”) by and between the Company and the Agency, (e) a certain mortgage and security agreement (the “Mortgage”) to secure the Loans from the Agency and the Company in favor of the Lender; and (f) a certain assignment of leases and rents (the “Assignment of Leases”) to secure the Loans from the Agency and the Company in favor of the Lender; and

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

SECTION 1. Upon review of the Town of Clifton Park Planning Board minutes and the environmental assessment form submitted by the Applicant the Agency hereby confirms the determination of the Town of Clifton Park Planning Board that the that the Project constitutes an “Unlisted Action” (as such term is defined by the SEQR Act) (hereinafter the “Initial Determination”). The Chairman shall take all action required by the SEQR Act to cause such Initial Determination to become final in accordance with the terms and provisions of the SEQR Act, including the filing of this Resolution in the office of the Agency to be made available for public inspection during business hours.

SECTION 2. The Agency hereby determines to (A) acquire, construct and install the Project Facility, or cause the Project Facility to be acquired, constructed and installed, (B) lease (with the obligation to purchase) or sell the Project Facility to the Applicant or its designee pursuant to a lease agreement (hereinafter, the “Agreement”) between the Agency and the Applicant, and (3) provide the Financial Assistance described in the Application.

SECTION 3. The Applicant and Munter Enterprises, Inc. are hereby appointed the true and lawful agents of the Agency (A) to (1) acquire the Land, (2) construct the Facility, and (3) acquire and install the Equipment, (B) to appoint sub-agents for such purposes and (C) to make, execute, acknowledge, and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for completing the Project and all with the same powers and the same validity as the Agency could do if acting on its own behalf. In addition, the Applicant and Munter Enterprises, Inc. are hereby authorized to advance such funds as may be necessary to accomplish such purposes.

SECTION 4. (a) Each officer of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Underlying lease, the Lease Agreement, the PILOT Agreement, the Project Agreement, the Mortgage, and the Assignment of Leases, (hereinafter collectively called the “Leasing Documents”), and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in substantially the forms previously executed and delivered by the Agency for similar-type transactions with such changes, variations, omissions and insertions as the officer so executing and counsel to the Agency shall approve, the execution thereof by such officer to constitute conclusive evidence of such approval

SECTION 5. The Agency is hereby authorized to acquire all of the real and personal property described in the Lease Agreement.

SECTION 6. The officers, agents and employees of the Agency are hereby authorized, empowered and directed to proceed with the undertakings provided for therein on the part of the Agency and are further authorized to do all such acts and things and to execute all such documents as may be necessary or convenient to carry out and comply with the terms and provisions of this Resolution.

SECTION 7. This Resolution shall take effect immediately and shall remain in effect until the earlier of (1) the execution and delivery of the Agreement at which time all provisions and conditions hereof shall be deemed merged into such Agreement and (2) the date which is two (2) years from the date hereof.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Jonathan Schopf	VOTING
Todd Hess	VOTING
Daniel Fariello	VOTING
Sheila Barkevich	VOTING
Joshua O'Leary	VOTING
Derek Brown	VOTING

The foregoing Resolution was thereupon declared duly [defeated][adopted].

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF )

I, the undersigned Chairman of the Town of Clifton Park Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency held on May 2, 2022, including the resolution contained therein, with the original thereof on file in my office, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respect duly held; (C) pursuant to Article 7 of the Public Officers Law (the “Open Meetings Law”), said meeting was open to the general public, and due notice of the time and place of said meeting was given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_, (Assistant) Secretary