

**RESOLUTION AUTHORIZING RECONVEYANCE
LOWER SARANAC HYDRO PROJECT**

A regular meeting of County of Clinton Industrial Development Agency (the "Agency") was convened in public session in the offices of the Agency located at 190 Banker Road, Suite 500 in the Town of Plattsburgh, Clinton County, New York on November 3, 2014 at 12:00 o'clock p.m., local time.

The meeting was called to order by the Chairperson and, upon roll being called, the following members of the Agency were:

PRESENT:

- | | |
|------------------|---------------------------------------|
| Trent Trahan | Chairperson |
| David Hoover | Vice Chairperson |
| Michael E. Zurlo | Secretary |
| Kim Murray | Assistant Secretary |
| Keith Defayette | Treasurer and Chief Financial Officer |
| Mark Leta | Member |
| John VanNatten | Member |

EXCUSED:

THE FOLLOWING PERSONS WERE ALSO PRESENT:

- | | |
|----------------------------|---------------------|
| Erin M. Hynes | Executive Director |
| Barbara Shute | Recording Secretary |
| George W. Cregg, Jr., Esq. | Agency Counsel |

The following resolution was offered by M. Zurlo, seconded by K. Defayette, to wit:

Resolution No. 11-14-01

**RESOLUTION AUTHORIZING RECONVEYANCE OF THE LOWER SARANAC
HYDRO PROJECT AND THE EXECUTION OF RELATED DOCUMENTS.**

WHEREAS, County of Clinton Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 225 of the 1971 Laws of New York, as amended, constituting Section 895-f 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 commercial, manufacturing, and warehousing 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, reconstruct and install one or more "projects" (as defined in the Act) or to cause said

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more “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

WHEREAS, on or about April 16, 1990 (the “Closing Date”), the Agency undertook the following project (the “Project”) for the benefit Lower Saranac Hydro Partners, L.P., (the “Company”): (A)(1) the acquisition of a fee or leasehold interest in an approximately 70+- acre parcel of land located on or about the Saranac River in the Towns of Plattsburgh and Schuyler Falls, Clinton County, New York (the “Land”), together with an existing concrete and masonry gravity dam located thereon (the “Existing Dam”); (2) the reconstruction of the Existing Dam; (3) the construction of the new intake channel, 4,000 foot long penstock, concrete powerhouse, tailrace and switchyard (the “New Facilities”) on the Land (the Existing Dam, as renovated, and the New Facilities being collectively referred to as the “Facility”); and (4) the installation of certain machinery and equipment on the Land and in the Facility (the “Equipment”), all the foregoing to constitute a 6.4 megawatt hydroelectric generating facility (the Land, the Facility and the Equipment hereinafter being collectively referred to as the “Project Facility”), and (B) the financing of all or a portion of the costs of the foregoing by the issuance of the Agency’s (i) construction loan note dated April 4, 1990 in the principal amount of not to exceed \$16,000,000 (the “Construction Loan Note”), (ii) term loan dated April 4, 1990 in the principal amount of not to exceed \$12,320,000 (the “Term Loan Note”) and (iii) revolving credit note dated April 4, 1990 in the principal amount of not the exceed \$900,000 (the “Revolving Credit Note”) issued pursuant to a construction loan agreement and a term loan and revolving credit agreement, each dated as of April 4, 1990 (the “Loan Agreements”) by and among the Agency, the Company, Lower Saranac Corporation, as sole general partner of the Company, and TIFD III-Q Inc., as original purchaser of said notes (the “Lender”) (all the promissory notes delivered pursuant to the Loan Agreements, as the same may be amended, endorsed or supplemented from time to time, being sometimes hereinafter collectively referred to as the “Note”) and (C) the selling of the Project Facility to the Company pursuant to the terms of an installment sale agreement dated April 4, 1990 (the “Installment Sale Agreement”) by and between the Agency and the Company; and

WHEREAS, on the Closing Date, the Company executed and delivered to the Agency a certain deed (the “Deed to Agency”) from the Company to the Agency, pursuant to which the Company conveyed to the Agency its real property interest in the Project Facility; and

WHEREAS, in connection with the Project, the Agency and the Company entered into a mortgage dated as of April 4, 1990 (the “Mortgage”) from the Agency and the Company to the Lender, a pledge and assignment dated as of April 4, 1990 (the “Pledge and Assignment”) from the Agency to the Lender, an assignment and assumption of contracts dated as of April 4, 1990 (the “Assignment and Assumption of Contracts”) by and between the Agency and the Company, a payment in lieu of tax agreement dated as of April 4, 1990 (the “Payment in Lieu of Tax Agreement”) by and among the Agency, the County Treasurer of Clinton County (the “County Treasurer”) and the Company, various assignments, each dated as of April 4, 1990 (the “Assignments”) from the Company and the Agency to the Lender, a security agreement dated as of April 4, 1990 (the “Security Agreement”) from the Company and the Agency to the Lender, a subordination agreement dated as of April 4, 1990 (the “Subordination Agreement”) by and among New York State Electric & Gas Corporation (“NYSEG”), the Company, the Agency and the Lender, and a subordinated mortgage and security agreement dated as of April 4, 1990 (the “Subordinated Mortgage”) from the Agency and the Company to NYSEG (collectively, the “Financing Documents”); and

WHEREAS, per the Financing Documents and the correspondence attached hereto as Exhibit A, the Project is being terminated and reconveyed to the Company (the “Reconveyance”); and

WHEREAS, in connection with the Reconveyance, the Agency and the Company will execute certain documents to evidence the Reconveyance, including a deed to Company dated as of the date of the Reconveyance (collectively, the “Reconveyance Documents”); and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination on the above described Reconveyance; and

WHEREAS, pursuant to SEQRA, the Agency has examined the Reconveyance in order to make a determination as to whether the Reconveyance is subject to SEQRA, and it appears that the Reconveyance constitutes a Type II action under SEQRA;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF COUNTY OF CLINTON INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. Based upon an examination of the Reconveyance, the Agency hereby determines that the Reconveyance constitutes a “Type II action” pursuant to 6 NYCRR 617.5(c)(26), and therefore that, pursuant to 6 NYCRR 617.6(a)(1)(i), the Agency has no further responsibilities under SEQRA with respect to the Reconveyance.

Section 2. Subject to (A) approval of the form of the Reconveyance Documents by Agency counsel, (B) evidence satisfactory to the Agency that (i) all payments in lieu of taxes and other local fees and assessments relating to the Project Facility have been paid by the Company and (ii) the Notes have been paid or discharged or if not paid, evidence that the Agency has been removed as a party to the Financing Documents and any other security documents and (C) receipt by the Chairperson of the Agency’s administrative fee and counsel fees relating to the Reconveyance, the Agency hereby authorizes the execution by the Agency of the Reconveyance Documents.

Section 3. Subject to the satisfaction of the conditions described in Section 2 hereof, the Chairperson (or Vice Chairperson) of the Agency is hereby authorized to execute and deliver the Reconveyance Documents to the Company, 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 form thereof presented to this meeting, with such changes, variations, omissions and insertions as the Chairperson (or Vice Chairperson) shall approve, the execution thereof by the Chairperson (or Vice Chairperson) to constitute conclusive evidence of such approval.

Section 4. The law firm of Hodgson Russ LLP is hereby appointed Agency Counsel to the Agency with respect to all matters in connection with the Reconveyance. Agency Counsel for the Agency is hereby authorized, at the expense of the Company, to work with the Company, and counsel to the Company, and others to prepare, for submission to the Agency, all documents necessary to effect the transactions contemplated by this Resolution.

Section 5. This Resolution shall take effect immediately.

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

| | | |
|------------------|--------|------------|
| Trent Trahan | VOTING | YES |
| David Hoover | VOTING | YES |
| Michael E. Zurlo | VOTING | YES |
| Kim Murray | VOTING | YES |
| John VanNatten | VOTING | YES |
| Keith Defayette | VOTING | YES |
| Mark Leta | VOTING | Abstained_ |

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned Secretary of County of Clinton Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on November 3, 2014 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein 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 through 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 3rd day of November, 2014.


Michael E. Zurlo, Secretary

(SEAL)

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

I, the undersigned Secretary of County of Clinton Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on November 3, 2014 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

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IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 3rd day of November, 2014.


Michael E. Zurlo, Secretary

(SEAL)

EXHIBIT A
CORRESPONDENCE

- SEE ATTACHED -

Zeigler, Nadene

From: Erin M. Hynes <emhynes@thedevelopcorp.com>
Sent: Tuesday, October 07, 2014 4:26 PM
To: Cregg Jr, George
Cc: Barbara J. Shute
Subject: FW: 1990 Clinton County IDA agreements (Lower Saranac)

Was this started by you? or just a wonderful coincidence? Let me know and I can get the letter out to them for reconveyance

Erin M. Hynes, MPA
Economic Developer
The Development Corporation
190 Banker Road, Suite 500
Plattsburgh, NY 12901
(518) 563-3100
www.thedevelopcorp.com

From: Erin Hynes [<mailto:infoatidas@gmail.com>]
Sent: Tuesday, October 07, 2014 3:09 PM
To: Erin M. Hynes
Subject: Fwd: 1990 Clinton County IDA agreements

Hi Erin,

Should I refer them to George?

Barbara

----- Forwarded message -----

From: Mike Peisner <MPeisner@curtisthaxter.com>
Date: Tue, Oct 7, 2014 at 2:13 PM
Subject: 1990 Clinton County IDA agreements
To: "infoatidas@gmail.com" <infoatidas@gmail.com>

Sir/Madame:

I represent Lower Saranac Hydro Partners, LP, which is a party to 1990 PILOT and Installment Sale Agreements with the IDA. Under the latter agreement, Lower Saranac's property was conveyed to the IDA, with a provision that the property was to be deeded back no later than 2006. We have found no record that that has happened. Can you put me in touch with the person with whom I should be dealing to make arrangements for the re-conveyance?

Michael B. Peisner, Esq.

mpeisner@curtisthaxter.com

[Click Here](#) to send me files securely

CURTIS THAXTER

ATTORNEYS AT LAW

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