

## **Barnes Road Solar (East) Due Diligence Resolution**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on May 24, 2022, at 10:00 A.M., local time, at (i) the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”), and (ii) the SUNY Incubator, 214 Central Avenue, Dunkirk, County of Chautauqua, New York (the “Incubator”), and was conducted by videoconferencing in compliance with Section 103-a of the New York State Public Officers Law.

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

**PRESENT:**

Michael Metzger	Chairman	Incubator
Hans Auer	Treasurer	IDA Office
Gary Henry	Secretary	IDA Office
Steven Thorpe	Member	IDA Office
Brad Walters	Member	IDA Office
Kevin Muldowney	Member	Incubator
Rhonda Johnson	Member	IDA Office

**NOT PRESENT:**

Dennis J. Rak	Vice Chairman
Jay Churchill	Member

**THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:**

Mark Geise	Administrative Director/CEO
Richard E. Dixon	Chief Financial Officer
Milan K. Tyler, Esq.	Counsel
Greg Peterson	Counsel
Rosie Strandburg	CCIDA Staff
Jeanette Lo Bello	CCIDA Staff
Carol Rasmussen	CCIDA Staff
Kristine Morabito	CCIDA Staff
Kayla Strandburg	CCIDA Staff
Jason Toczydlowski	CCIDA Staff
Crystal Erhard	CCIDA Staff
Nate Aldrich	CCIDA Staff
Matt Longman	Seaboard Solar

The attached resolution no. 05-24-22-01 was offered by Kevin Muldowney, seconded by Gary Henry:

RESOLUTION APPROVING UNDERTAKING DUE DILIGENCE FOR A CERTAIN PROJECT FOR BARNES ROAD SOLAR, LLC AND/OR ITS AFFILIATES AND AUTHORIZING THE EXECUTION AND DELIVERY OF A DUE DILIGENCE AGREEMENT WITH RESPECT TO SUCH TRANSACTION

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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 manufacturing, industrial and commercial 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 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, BARNES ROAD SOLAR, LLC, a limited liability company duly organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign limited liability company (the “Applicant”), presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 26 acre portion of an approximately 34 acre parcel of land located on Barnes Road, Town of Stockton, Chautauqua County, New York (current SBL 214.00-1-40) (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on single axis trackers, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 4.375 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with

an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the Agency has given due consideration to the Application and to the representations made by the Applicant therein, in certain supplemental documents and at this meeting, including, without limitation, representations of the Applicant that: (A) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Applicant to undertake the Project in the County of Chautauqua, New York; (B) the completion of the Project and the leasing and operation of the Project Facility by the Applicant and/or its related designee will not result in the removal of a facility or plant of the Applicant, such related designee or any other occupant of the Project Facility from one area of the State of New York (the "State") to another area of the State or in the abandonment of one or more plants or facilities of the Applicant, such related designee or any other occupant of the Project Facility in the State; (C) the Project Facility will not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project; (D) the Project will serve the public purposes of the Act by preserving permanent, private sector jobs and increasing the overall number of permanent, private sector jobs in the State; and (E) the granting of the Financial Assistance by the Agency will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of the County of Chautauqua, New York, and improve their standard of living, and prevent unemployment and economic deterioration, and thereby serve the public purposes of the Act; and

WHEREAS, any approval of the Project is contingent upon, among other things, a final determination by the members of the Agency to proceed with the Project following determinations by the Agency that: (A) the public hearing and notice requirements and other procedural requirements contained in the Act relating to the Project and the Financial Assistance have been satisfied; and (B) the undertaking of the Project by the Agency and the granting of the Financial Assistance are and will be in compliance with all other applicable requirements of the Act, Article 8 of the Environmental Conservation Law (the "SEQR Act") and the regulations adopted pursuant thereto (the "Regulations" and together with the SEQR Act, collectively, "SEQRA"), and all other statutes, codes, laws, rules and regulations of any governmental authority having jurisdiction over the Project or the Project Facility (collectively, the "Applicable Laws"); and

WHEREAS, the Agency desires to encourage the Applicant to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of the County of Chautauqua, New York, and to prevent unemployment and economic deterioration, by undertaking the Project in the County of Chautauqua, New York; and

WHEREAS, although a resolution authorizing the undertaking of the Project has not yet been submitted for approval by the Agency, a due diligence agreement (the "Due Diligence Agreement") relative to the proposed undertaking of the Project by the Agency has been presented for approval by the Agency;

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

Section 1. The Agency hereby authorizes the Administrative Director/CEO of the Agency, prior to the granting of any Financial Assistance with respect to the Project: (A) to establish a time, date and place (if applicable) for a public hearing (the “Public Hearing”) of the Agency to hear all persons interested in the location and nature of the Project and the proposed Financial Assistance being contemplated by the Agency with respect to the Project, said Public Hearing to be held in the city, town or village within which the Project Facility is or will be located, subject to Applicable Laws; (B) to cause notice of said Public Hearing to be given to the public by publishing a notice of said Public Hearing in a newspaper of general circulation available to residents of the governmental units within which the Project Facility is or will be located, such notice to comply with the requirements of and to be published in accordance with the requirements of the Act; (C) to cause notice of said Public Hearing, pursuant to the Act, to be given to the chief executive officer of the County of Chautauqua, New York, and of each city, town, village, school district and other affected tax jurisdiction in which the Project Facility is or will be located; (D) to conduct the Public Hearing or to authorize a hearing officer to conduct the Public Hearing in accordance with the Act; (E) to cause a report of the Public Hearing fairly summarizing the views presented at said Public Hearing to be promptly prepared and cause copies of said report to be made available to the members of the Agency; and (F) to otherwise comply with all other procedural and other requirements imposed on the Agency pursuant to Applicable Laws with respect to the Project and/or the Financial Assistance.

Section 2. The Applicant is hereby authorized to conduct such environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary or convenient to enable the Agency to make its determination whether to proceed with the Project and to grant the Financial Assistance; provided, however, that such authorization shall not entitle or permit the Applicant to commence the acquisition, construction, installation or equipping of the Project Facility unless and until the Agency shall determine that all requirements of Applicable Laws have been fulfilled. The officers, agents and employees of the Agency are hereby directed to proceed to do such things or perform such acts as may allow the Agency to proceed to its final consideration of the Project. This Resolution constitutes an authorization to conduct concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning with respect to the Project within the meaning of Section 617.3(c)(2) of the Regulations and a determination of compliance with technical requirements within the meaning of Section 617.3(c)(2) of the Regulations and does not constitute, and shall not be deemed to constitute, either an approval by the Agency of the Project for the purposes of the Act or SEQRA or a commitment by the Agency to approve the Project or to grant the Financial Assistance.

Section 3. Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Applicant as set forth in the Due Diligence Agreement.

Section 4. The findings of the Agency set forth herein are expressly conditioned upon full compliance of the Applicant, the Project and the Project Facility with all Applicable

Laws, and the Applicant shall be required to provide evidence of same satisfactory to the Agency prior to the granting of any Financial Assistance.

Section 5. If, following full compliance with all Applicable Laws, the Agency adopts a future resolution (the “Future Resolution”) determining to proceed with the Project and to grant the Financial Assistance, or any portion thereof, with respect to the Project and the Applicant complies with all conditions set forth in the Due Diligence Agreement and the Future Resolution, then the Agency will (A) acquire an interest in the Project Facility pursuant to a deed, lease agreement, assignment of lease, license, bill of sale and/or other documentation to be negotiated between the Agency and the Applicant (the “Company Lease”); (B) lease (with the obligation to purchase), license or sell the Project Facility to the Applicant or related designee pursuant to an agency lease agreement or an installment sale agreement (the “Agency Lease”) to be negotiated between the Agency and the Applicant; and (C) provide the Financial Assistance with respect to the Project, all as contemplated by the Due Diligence Agreement and the Future Resolution.

Section 6. The form, terms and substance of the Due Diligence Agreement (in substantially the form presented at this meeting) are in all respects approved, and the Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized, empowered and directed, acting individually or jointly, to execute and deliver said Due Diligence Agreement in the name and on behalf of the Agency, with such changes therein as shall be approved by the officer executing same on behalf of the Agency, the execution thereof by such officer to constitute conclusive evidence of such officer’s approval of any and all changes or revisions therein from the form now before this meeting, and the Agency hereby ratifies and approves any action heretofore taken by the Agency with respect to the Due Diligence Agreement.

Section 7. From and after the execution and delivery of the Due Diligence Agreement, the officers, agents and employees of the Agency are hereby authorized, empowered and directed, acting individually or jointly, 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 the Due Diligence Agreement as and when executed.

Section 8. The law firm of Phillips Lytle LLP, Jamestown, New York, is hereby appointed Counsel to the Agency with respect to all matters in connection with the Project. Counsel for the Agency is hereby authorized, at the expense of the Applicant, to work with the Applicant, counsel to the Applicant, and others to prepare, for submission to the Agency, all documents necessary to effect the transactions contemplated by this Resolution.

Section 9. The Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 10. 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:

Michael Metzger	AYE
Dennis J. Rak	ABSENT
Hans Auer	AYE
Gary Henry	AYE
Steven Thorpe	AYE
Brad Walters	AYE
Jay Churchill	ABSENT
Kevin Muldowney	AYE
Rhonda Johnson	AYE

The foregoing Resolution was thereupon declared duly adopted.

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

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 24, 2022 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) the meeting was duly held by videoconferencing in compliance with the requirements of Section 103-a of the Open Meetings Law, including, but not limited to, the notice provisions of such Section; (E) there was a quorum of the members of the Agency present throughout said meeting and the minimum number of members required for a quorum was physically present at one of the locations specified in the notice of the meeting, (F) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law; (G) members of the public were permitted to view such meeting via video and to participate in the proceedings via videoconference in real time to the same extent that that public participation was permitted to members of the public present in person.

WE 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, we have hereunto set our hand this 24<sup>th</sup> day of May, 2022.

  
\_\_\_\_\_  
[Assistant] Secretary

  
\_\_\_\_\_  
[Vice] Chairman

## DUE DILIGENCE AGREEMENT

THIS DUE DILIGENCE AGREEMENT (this "Agreement") dated as of the 24th day of May, 2022, between the COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY (the "Agency"), a public benefit corporation organized and existing under the laws of the State of New York, and BARNES ROAD SOLAR, LLC, a limited liability company duly organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign limited liability company (the "Applicant").

### WITNESSETH:

WHEREAS, the Agency is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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 manufacturing, industrial and commercial 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 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, the Applicant presented an application for financial assistance (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Proposed Project") consisting of the following: (A)(1) the acquisition of an interest in an approximately 26 acre portion of an approximately 34 acre parcel of land located on Barnes Road, Town of Stockton, Chautauqua County, New York (current SBL 214.00-1-40) (collectively, the "Land"), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on single axes trackers, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the "Improvements"), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the "Equipment" and together with the Land and the Improvements, collectively, the "Project Facility"), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 4.375 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes



and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the members of the Agency require the execution and delivery of this Agreement by the Applicant as a condition to the Agency’s consideration of the Proposed Project;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Agency and the Applicant agree as follows:

Article 1. Representations; No Commitments.

Section 1.01. The Applicant hereby represents to the Agency that:

(A) Based on the proposed use of the Project Facility, the economic effects of the Proposed Project on the area in which it is situated and the prevention of economic deterioration in the County of Chautauqua (the “County”), the Proposed Project would constitute a commercial facility with a significant impact on the area in which it is situated, and would advance the Agency’s purposes by preventing economic deterioration in the County. Therefore, the Proposed Project would constitute a "project" within the meaning of the Act.

(B) The execution, delivery and performance by the Applicant of this Agreement have been duly authorized by all necessary company action, and this Agreement has been duly executed and delivered by the Applicant and is the legal, valid and binding obligation of the Applicant enforceable against the Applicant in accordance with its terms.

(C) The Project Facility does not and will not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project Facility. For purposes of this representation, retail sales shall mean: (i) sales by a registered vendor under Article 28 of the New York Tax Law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of Section 1101 of the New York Tax Law; or (ii) sales of a service to such customers.

(D) The undertaking of the Proposed Project will not result in the removal of a facility or plant of the Applicant from one area of the State of New York to another area of the State of New York or in the abandonment of one or more plants or facilities of the Applicant located in the State of New York (but outside the County). Therefore, the provisions of subdivision (1) of Section 862 of the Act would not be violated as a result of the granting of the Financial Assistance by the Agency to the Applicant.

(E) Each owner, occupant or operator that would receive Financial Assistance with respect to the Proposed Project is in substantial compliance with applicable federal, state and local tax, worker protection and environmental laws, rules and regulations.

(F) As of the date of this Agreement, the Applicant is in substantial compliance with all provisions of Article 18-A of the General Municipal Law, including, but not limited to, the provisions of Section 859-a and Section 862(1) thereof.

(G) The granting by the Agency of the Financial Assistance with respect to the Proposed Project would be an inducement to the Applicant to undertake the Proposed Project in the County.

(H) The Applicant would not undertake the Proposed Project in the County without the granting of the Financial Assistance by the Agency.

(I) The Project Facility is located entirely within the boundaries of the Town of Stockton, County of Chautauqua, and the Cassadaga Valley Central School District and is not located within the boundaries of any incorporated village or city.

(J) The Applicant plans to invest a total of at least \$7,669,207 in the Project Facility.

(K) The Application is and remains true, accurate and complete in all respects as of the date hereof.

Section 1.02. The Transactions Committee of the Agency has approved the execution of this Agreement. The Agency intends this Agreement to constitute its binding commitment, subject to the terms hereof, to accept the Application; provided, however, that this Agreement shall not commit the Agency to undertake the Proposed Project or to grant to the Applicant any Financial Assistance with respect to the Proposed Project. The members of the Agency shall decide, in their sole and absolute discretion, whether or not to undertake the Proposed Project and to grant such Financial Assistance, and then only following a determination by the members of the Agency that all requirements of applicable laws, rules and regulations and the policies and procedures of the Agency (collectively, "Legal Requirements") have been fulfilled.

## Article 2. Undertakings on the Part of the Agency.

Based upon the statements, representations and undertakings of the Applicant, and subject to the conditions set forth herein, the Agency agrees as follows:

Section 2.01. The Agency shall undertake formal consideration of the Proposed Project and the Financial Assistance relating to the Proposed Project, subject to the conditions contained in this Agreement, including, but not limited to, the provision of Section 1.02 above and the following conditions:

(A) The Agency shall receive, in form and substance satisfactory to the Agency, such rulings, approvals, resolutions, consents, certificates, opinions of counsel and other instruments and proceedings as shall be specified by the Agency in connection with the Proposed Project and the various documents to be executed in connection with the Proposed Project;

(B) The Applicant shall provide the Agency and all other “involved/interested agencies” with all information and statements that may be required by said respective entities to ensure compliance by said entities with the New York State Environmental Quality Review Act and the regulations promulgated thereunder (collectively, “SEQRA”);

(C) The Applicant shall comply with and shall provide the Agency with all information, documentation and statements required for the Agency to comply with the requirements of all Legal Requirements; and

(D) The Applicant shall pay all expenses incurred by the Agency in connection with the Proposed Project (including, without limitation, counsel fees and disbursements) and shall pay all fees of the Agency.

### Article 3. Undertakings on the Part of the Applicant.

Based upon the statements, representations and undertakings of the Agency and subject to the conditions set forth herein, the Applicant agrees as follows:

Section 3.01. The Applicant hereby agrees to indemnify, defend (with counsel selected by the Agency) and hold the Agency (and its members, officers, agents, attorneys and employees) harmless from any and all liability, damages, causes of actions, losses, costs or expenses incurred by the Agency in connection with: (A) examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application, the Proposed Project or the Financial Assistance are favorably acted upon by the Agency, (B) the acquisition, construction, installation and equipping of the Project Facility, and (C) any further action taken by the Agency with respect to the Proposed Project; including, without limiting the generality of the foregoing, (i) all fees and expenses of the Agency’s general counsel, transaction counsel, economic development consultant, real property tax valuation consultant and other experts and consultants (if deemed necessary or advisable by the Agency) heretofore or hereafter incurred, and (ii) all other expenses incurred by the Agency in defending any suits, actions or proceedings that may arise as a result of any of the foregoing. If, for any reason whatsoever, the Agency decides not to proceed with consideration of the Application or the proposed Project or the Applicant fails to conclude or consummate necessary negotiations or fails within a reasonable or specified period of time to take reasonable, proper or requested action or withdraws, abandons, cancels, or neglects

the Application or if the Applicant is unable to secure third party financing, if required, or otherwise fails to conclude the Proposed Project, then upon presentation of an invoice by the Agency, its agents, attorneys or assigns, the Applicant shall pay to the Agency, its agents, attorneys or assigns, as the case may be, all fees and expenses reflected in any such invoice.

Section 3.02. The Applicant agrees that each of the Agency's general counsel, transaction counsel, economic development consultant, real property tax valuation consultant and other experts and consultants is an intended third-party beneficiary of this Agreement, and that each of them may (but shall not be obligated to) enforce the provisions of Section 3.01 of this Agreement, whether by lawsuit or otherwise, to collect the fees and expenses of such party or person incurred by the Agency (whether or not first paid by the Agency) with respect to the Application. The Applicant further agrees that the Agency may (but shall not be obligated to) directly enforce the provisions of Section 3.01 of this Agreement against the Applicant, whether by lawsuit or otherwise, to collect such fees and expenses.

Section 3.03. The Applicant will take such further action and adopt such further proceedings as the Agency may deem necessary to implement its aforesaid undertakings or as the Agency may deem appropriate in pursuance thereof.

Section 3.04. This Agreement is intended to facilitate discussion regarding the Proposed Project, and neither this Agreement nor any discussions or course of conduct between the parties or their representatives shall constitute an agreement, offer or legally binding commitment by the Agency to undertake the Proposed Project or to grant the Financial Assistance. This Agreement does not purport to summarize or contain all the conditions, covenants, representations, warranties and other provisions that would be contained in the definitive documentation between the Agency and the Applicant relating to the Proposed Project.

Article 4. General Provisions.

Section 4.01. (A) All notices and other communications hereunder shall be in writing and shall be deemed given (i) when mailed by United States registered or certified mail, postage prepaid, return receipt requested, (ii) when delivered by hand delivery to the undersigned, or (iii) the date of delivery (or refusal) after deposit with Federal Express or other nationally recognized overnight courier for next business day delivery, addressed as follows:

- (1) To the Agency:

County of Chautauqua Industrial Development Agency  
201 West 3rd Street, Suite 115  
Jamestown, NY 14701  
Attn: Mark Geise

- (2) To the Applicant:

Barnes Road Solar, LLC  
143 West Street, Suite 201C  
New Milford, CT 06776  
Attn: Matthew Longman

(B) The Agency and the Applicant may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

Section 4.02. All covenants and agreements herein contained by or on behalf of the Agency and the Applicant shall bind and inure to the benefit of the respective permitted successors and assigns of the Agency and the Applicant, as the case may be, whether so expressed or not.

Section 4.03. The obligations and agreements of the Agency contained herein shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent or employee of the Agency in his individual capacity, and the members, officers, agents and employees of the Agency shall not be liable personally hereon or be subject to any personal liability or accountability based upon or in respect hereof or of any transaction contemplated hereby. The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or of the County, and neither the State of New York nor the County, shall be liable thereon; and further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project Facility.

Section 4.04. Notwithstanding any provision of this Agreement to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (A) the Agency shall have been requested to do so in writing by the Applicant; and (B) if compliance with such request is reasonably expected to result in the incurrence by the Agency (or any member, officer, agent or employee of the Agency) of any liability, fees, expenses or other costs, the Agency shall have received from the Applicant security or indemnity satisfactory to the Agency for protection against all such liability and for the reimbursement of all such fees, expenses and other costs.

Section 4.05. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Signatures by facsimile or in Portable Document Format shall be deemed to constitute originals.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date and year first written above.

BARNES ROAD SOLAR, LLC

COUNTY OF CHAUTAUQUA INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_

Name:

Title:

By: Richard E Dixon \_\_\_\_\_

Name: Richard E. Dixon

Title: CFO

**Barnes Road Solar (West) Due Diligence Resolution**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on May 24, 2022, at 10:00 A.M., local time, at (i) the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”), and (ii) the SUNY Incubator, 214 Central Avenue, Dunkirk, County of Chautauqua, New York (the “Incubator”), and was conducted by videoconferencing in compliance with Section 103-a of the New York State Public Officers Law.

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

**PRESENT:**

Michael Metzger	Chairman	Incubator
Hans Auer	Treasurer	IDA Office
Gary Henry	Secretary	IDA Office
Steven Thorpe	Member	IDA Office
Brad Walters	Member	IDA Office
Kevin Muldowney	Member	Incubator
Rhonda Johnson	Member	IDA Office

**NOT PRESENT:**

Dennis J. Rak	Vice Chairman
Jay Churchill	Member

**THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:**

Mark Geise	Administrative Director/CEO
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Crystal Erhard	CCIDA Staff
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Matt Longman	Seaboard Solar

The attached resolution no. 05-24-22-02 was offered by Gary Henry, seconded by Steve Thorpe:

RESOLUTION APPROVING UNDERTAKING DUE DILIGENCE FOR A CERTAIN PROJECT FOR BARNES ROAD SOLAR, LLC AND/OR ITS AFFILIATES AND AUTHORIZING THE EXECUTION AND DELIVERY OF A DUE DILIGENCE AGREEMENT WITH RESPECT TO SUCH TRANSACTION

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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 manufacturing, industrial and commercial 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 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, BARNES ROAD SOLAR, LLC, a limited liability company duly organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign limited liability company (the “Applicant”), presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 33.5 acre portion of an approximately 67 acre parcel of land located on Barnes Road, Town of Stockton, Chautauqua County, New York (current SBL 214.00-1-50) (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on single axis trackers, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 4.975 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project



Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the Agency has given due consideration to the Application and to the representations made by the Applicant therein, in certain supplemental documents and at this meeting, including, without limitation, representations of the Applicant that: (A) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Applicant to undertake the Project in the County of Chautauqua, New York; (B) the completion of the Project and the leasing and operation of the Project Facility by the Applicant and/or its related designee will not result in the removal of a facility or plant of the Applicant, such related designee or any other occupant of the Project Facility from one area of the State of New York (the "State") to another area of the State or in the abandonment of one or more plants or facilities of the Applicant, such related designee or any other occupant of the Project Facility in the State; (C) the Project Facility will not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project; (D) the Project will serve the public purposes of the Act by preserving permanent, private sector jobs and increasing the overall number of permanent, private sector jobs in the State; and (E) the granting of the Financial Assistance by the Agency will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of the County of Chautauqua, New York, and improve their standard of living, and prevent unemployment and economic deterioration, and thereby serve the public purposes of the Act; and

WHEREAS, any approval of the Project is contingent upon, among other things, a final determination by the members of the Agency to proceed with the Project following determinations by the Agency that: (A) the public hearing and notice requirements and other procedural requirements contained in the Act relating to the Project and the Financial Assistance have been satisfied; and (B) the undertaking of the Project by the Agency and the granting of the Financial Assistance are and will be in compliance with all other applicable requirements of the Act, Article 8 of the Environmental Conservation Law (the "SEQR Act") and the regulations adopted pursuant thereto (the "Regulations" and together with the SEQR Act, collectively, "SEQRA"), and all other statutes, codes, laws, rules and regulations of any governmental authority having jurisdiction over the Project or the Project Facility (collectively, the "Applicable Laws"); and

WHEREAS, the Agency desires to encourage the Applicant to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of the County of Chautauqua, New York, and to prevent unemployment and economic deterioration, by undertaking the Project in the County of Chautauqua, New York; and

WHEREAS, although a resolution authorizing the undertaking of the Project has not yet been submitted for approval by the Agency, a due diligence agreement (the "Due Diligence Agreement") relative to the proposed undertaking of the Project by the Agency has been presented for approval by the Agency;

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

Section 1. The Agency hereby authorizes the Administrative Director/CEO of the Agency, prior to the granting of any Financial Assistance with respect to the Project: (A) to establish a time, date and place (if applicable) for a public hearing (the “Public Hearing”) of the Agency to hear all persons interested in the location and nature of the Project and the proposed Financial Assistance being contemplated by the Agency with respect to the Project, said Public Hearing to be held in the city, town or village within which the Project Facility is or will be located, subject to Applicable Laws; (B) to cause notice of said Public Hearing to be given to the public by publishing a notice of said Public Hearing in a newspaper of general circulation available to residents of the governmental units within which the Project Facility is or will be located, such notice to comply with the requirements of and to be published in accordance with the requirements of the Act; (C) to cause notice of said Public Hearing, pursuant to the Act, to be given to the chief executive officer of the County of Chautauqua, New York, and of each city, town, village, school district and other affected tax jurisdiction in which the Project Facility is or will be located; (D) to conduct the Public Hearing or to authorize a hearing officer to conduct the Public Hearing in accordance with the Act; (E) to cause a report of the Public Hearing fairly summarizing the views presented at said Public Hearing to be promptly prepared and cause copies of said report to be made available to the members of the Agency; and (F) to otherwise comply with all other procedural and other requirements imposed on the Agency pursuant to Applicable Laws with respect to the Project and/or the Financial Assistance.

Section 2. The Applicant is hereby authorized to conduct such environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary or convenient to enable the Agency to make its determination whether to proceed with the Project and to grant the Financial Assistance; provided, however, that such authorization shall not entitle or permit the Applicant to commence the acquisition, construction, installation or equipping of the Project Facility unless and until the Agency shall determine that all requirements of Applicable Laws have been fulfilled. The officers, agents and employees of the Agency are hereby directed to proceed to do such things or perform such acts as may allow the Agency to proceed to its final consideration of the Project. This Resolution constitutes an authorization to conduct concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning with respect to the Project within the meaning of Section 617.3(c)(2) of the Regulations and a determination of compliance with technical requirements within the meaning of Section 617.3(c)(2) of the Regulations and does not constitute, and shall not be deemed to constitute, either an approval by the Agency of the Project for the purposes of the Act or SEQRA or a commitment by the Agency to approve the Project or to grant the Financial Assistance.

Section 3. Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Applicant as set forth in the Due Diligence Agreement.

Section 4. The findings of the Agency set forth herein are expressly conditioned upon full compliance of the Applicant, the Project and the Project Facility with all Applicable

Laws, and the Applicant shall be required to provide evidence of same satisfactory to the Agency prior to the granting of any Financial Assistance.

Section 5. If, following full compliance with all Applicable Laws, the Agency adopts a future resolution (the “Future Resolution”) determining to proceed with the Project and to grant the Financial Assistance, or any portion thereof, with respect to the Project and the Applicant complies with all conditions set forth in the Due Diligence Agreement and the Future Resolution, then the Agency will (A) acquire an interest in the Project Facility pursuant to a deed, lease agreement, assignment of lease, license, bill of sale and/or other documentation to be negotiated between the Agency and the Applicant (the “Company Lease”); (B) lease (with the obligation to purchase), license or sell the Project Facility to the Applicant or related designee pursuant to an agency lease agreement or an installment sale agreement (the “Agency Lease”) to be negotiated between the Agency and the Applicant; and (C) provide the Financial Assistance with respect to the Project, all as contemplated by the Due Diligence Agreement and the Future Resolution.

Section 6. The form, terms and substance of the Due Diligence Agreement (in substantially the form presented at this meeting) are in all respects approved, and the Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized, empowered and directed, acting individually or jointly, to execute and deliver said Due Diligence Agreement in the name and on behalf of the Agency, with such changes therein as shall be approved by the officer executing same on behalf of the Agency, the execution thereof by such officer to constitute conclusive evidence of such officer’s approval of any and all changes or revisions therein from the form now before this meeting, and the Agency hereby ratifies and approves any action heretofore taken by the Agency with respect to the Due Diligence Agreement.

Section 7. From and after the execution and delivery of the Due Diligence Agreement, the officers, agents and employees of the Agency are hereby authorized, empowered and directed, acting individually or jointly, 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 the Due Diligence Agreement as and when executed.

Section 8. The law firm of Phillips Lytle LLP, Jamestown, New York, is hereby appointed Counsel to the Agency with respect to all matters in connection with the Project. Counsel for the Agency is hereby authorized, at the expense of the Applicant, to work with the Applicant, counsel to the Applicant, and others to prepare, for submission to the Agency, all documents necessary to effect the transactions contemplated by this Resolution.

Section 9. The Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 10. 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:

Michael Metzger	AYE
Dennis J. Rak	ABSENT
Hans Auer	AYE
Gary Henry	AYE
Steven Thorpe	AYE
Brad Walters	AYE
Jay Churchill	ABSENT
Kevin Muldowney	AYE
Rhonda Johnson	AYE

The foregoing Resolution was thereupon declared duly adopted.

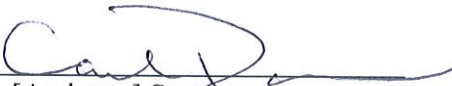
STATE OF NEW YORK            )  
  ) SS.:  
COUNTY OF CHAUTAUQUA    )

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 24, 2022 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) the meeting was duly held by videoconferencing in compliance with the requirements of Section 103-a of the Open Meetings Law, including, but not limited to, the notice provisions of such Section; (E) there was a quorum of the members of the Agency present throughout said meeting and the minimum number of members required for a quorum was physically present at one of the locations specified in the notice of the meeting, (F) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law; (G) members of the public were permitted to view such meeting via video and to participate in the proceedings via videoconference in real time to the same extent that that public participation was permitted to members of the public present in person.

WE 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, we have hereunto set our hand this 24<sup>th</sup> day of May, 2022.

  
\_\_\_\_\_  
[Assistant] Secretary

  
\_\_\_\_\_  
[Vice] Chairman

## DUE DILIGENCE AGREEMENT

THIS DUE DILIGENCE AGREEMENT (this "Agreement") dated as of the 24th day of May, 2022, between the COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY (the "Agency"), a public benefit corporation organized and existing under the laws of the State of New York, and BARNES ROAD SOLAR, LLC, a limited liability company duly organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign limited liability company (the "Applicant").

### WITNESSETH:

WHEREAS, the Agency is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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 manufacturing, industrial and commercial 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 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, the Applicant presented an application for financial assistance (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Proposed Project") consisting of the following: (A)(1) the acquisition of an interest in an approximately 33.5 acre portion of an approximately 67 acre parcel of land located on Barnes Road, Town of Stockton, Chautauqua County, New York (current SBL 214.00-1-50) (collectively, the "Land"), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on single axis trackers, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the "Improvements"), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the "Equipment" and together with the Land and the Improvements, collectively, the "Project Facility"), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 4.975 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes

and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the members of the Agency require the execution and delivery of this Agreement by the Applicant as a condition to the Agency’s consideration of the Proposed Project;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Agency and the Applicant agree as follows:

Article 1. Representations; No Commitments.

Section 1.01. The Applicant hereby represents to the Agency that:

(A) Based on the proposed use of the Project Facility, the economic effects of the Proposed Project on the area in which it is situated and the prevention of economic deterioration in the County of Chautauqua (the “County”), the Proposed Project would constitute a commercial facility with a significant impact on the area in which it is situated, and would advance the Agency’s purposes by preventing economic deterioration in the County. Therefore, the Proposed Project would constitute a "project" within the meaning of the Act.

(B) The execution, delivery and performance by the Applicant of this Agreement have been duly authorized by all necessary company action, and this Agreement has been duly executed and delivered by the Applicant and is the legal, valid and binding obligation of the Applicant enforceable against the Applicant in accordance with its terms.

(C) The Project Facility does not and will not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project Facility. For purposes of this representation, retail sales shall mean: (i) sales by a registered vendor under Article 28 of the New York Tax Law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of Section 1101 of the New York Tax Law; or (ii) sales of a service to such customers.

(D) The undertaking of the Proposed Project will not result in the removal of a facility or plant of the Applicant from one area of the State of New York to another area of the State of New York or in the abandonment of one or more plants or facilities of the Applicant located in the State of New York (but outside the County). Therefore, the provisions of subdivision (1) of Section 862 of the Act would not be violated as a result of the granting of the Financial Assistance by the Agency to the Applicant.

(E) Each owner, occupant or operator that would receive Financial Assistance with respect to the Proposed Project is in substantial compliance with applicable federal, state and local tax, worker protection and environmental laws, rules and regulations.

(F) As of the date of this Agreement, the Applicant is in substantial compliance with all provisions of Article 18-A of the General Municipal Law, including, but not limited to, the provisions of Section 859-a and Section 862(1) thereof.

(G) The granting by the Agency of the Financial Assistance with respect to the Proposed Project would be an inducement to the Applicant to undertake the Proposed Project in the County.

(H) The Applicant would not undertake the Proposed Project in the County without the granting of the Financial Assistance by the Agency.

(I) The Project Facility is located entirely within the boundaries of the Town of Stockton, County of Chautauqua, and the Cassadaga Valley Central School District and is not located within the boundaries of any incorporated village or city.

(J) The Applicant plans to invest a total of at least \$8,720,984 in the Project Facility.

(K) The Application is and remains true, accurate and complete in all respects as of the date hereof.

Section 1.02. The Transactions Committee of the Agency has approved the execution of this Agreement. The Agency intends this Agreement to constitute its binding commitment, subject to the terms hereof, to accept the Application; provided, however, that this Agreement shall not commit the Agency to undertake the Proposed Project or to grant to the Applicant any Financial Assistance with respect to the Proposed Project. The members of the Agency shall decide, in their sole and absolute discretion, whether or not to undertake the Proposed Project and to grant such Financial Assistance, and then only following a determination by the members of the Agency that all requirements of applicable laws, rules and regulations and the policies and procedures of the Agency (collectively, "Legal Requirements") have been fulfilled.

## Article 2. Undertakings on the Part of the Agency.

Based upon the statements, representations and undertakings of the Applicant, and subject to the conditions set forth herein, the Agency agrees as follows:



Section 2.01. The Agency shall undertake formal consideration of the Proposed Project and the Financial Assistance relating to the Proposed Project, subject to the conditions contained in this Agreement, including, but not limited to, the provision of Section 1.02 above and the following conditions:

(A) The Agency shall receive, in form and substance satisfactory to the Agency, such rulings, approvals, resolutions, consents, certificates, opinions of counsel and other instruments and proceedings as shall be specified by the Agency in connection with the Proposed Project and the various documents to be executed in connection with the Proposed Project;

(B) The Applicant shall provide the Agency and all other “involved/interested agencies” with all information and statements that may be required by said respective entities to ensure compliance by said entities with the New York State Environmental Quality Review Act and the regulations promulgated thereunder (collectively, “SEQRA”);

(C) The Applicant shall comply with and shall provide the Agency with all information, documentation and statements required for the Agency to comply with the requirements of all Legal Requirements; and

(D) The Applicant shall pay all expenses incurred by the Agency in connection with the Proposed Project (including, without limitation, counsel fees and disbursements) and shall pay all fees of the Agency.

### Article 3. Undertakings on the Part of the Applicant.

Based upon the statements, representations and undertakings of the Agency and subject to the conditions set forth herein, the Applicant agrees as follows:

Section 3.01. The Applicant hereby agrees to indemnify, defend (with counsel selected by the Agency) and hold the Agency (and its members, officers, agents, attorneys and employees) harmless from any and all liability, damages, causes of actions, losses, costs or expenses incurred by the Agency in connection with: (A) examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application, the Proposed Project or the Financial Assistance are favorably acted upon by the Agency, (B) the acquisition, construction, installation and equipping of the Project Facility, and (C) any further action taken by the Agency with respect to the Proposed Project; including, without limiting the generality of the foregoing, (i) all fees and expenses of the Agency’s general counsel, transaction counsel, economic development consultant, real property tax valuation consultant and other experts and consultants (if deemed necessary or advisable by the Agency) heretofore or hereafter incurred, and (ii) all other expenses incurred by the Agency in defending any suits, actions or proceedings that may arise as a result of any of the foregoing. If, for any reason whatsoever, the Agency decides not to proceed with consideration of the Application or the proposed Project or the Applicant fails to conclude or consummate necessary negotiations or fails within a reasonable or specified period of time to take reasonable, proper or requested action or withdraws, abandons, cancels, or neglects

the Application or if the Applicant is unable to secure third party financing, if required, or otherwise fails to conclude the Proposed Project, then upon presentation of an invoice by the Agency, its agents, attorneys or assigns, the Applicant shall pay to the Agency, its agents, attorneys or assigns, as the case may be, all fees and expenses reflected in any such invoice.

Section 3.02. The Applicant agrees that each of the Agency's general counsel, transaction counsel, economic development consultant, real property tax valuation consultant and other experts and consultants is an intended third-party beneficiary of this Agreement, and that each of them may (but shall not be obligated to) enforce the provisions of Section 3.01 of this Agreement, whether by lawsuit or otherwise, to collect the fees and expenses of such party or person incurred by the Agency (whether or not first paid by the Agency) with respect to the Application. The Applicant further agrees that the Agency may (but shall not be obligated to) directly enforce the provisions of Section 3.01 of this Agreement against the Applicant, whether by lawsuit or otherwise, to collect such fees and expenses.

Section 3.03. The Applicant will take such further action and adopt such further proceedings as the Agency may deem necessary to implement its aforesaid undertakings or as the Agency may deem appropriate in pursuance thereof.

Section 3.04. This Agreement is intended to facilitate discussion regarding the Proposed Project, and neither this Agreement nor any discussions or course of conduct between the parties or their representatives shall constitute an agreement, offer or legally binding commitment by the Agency to undertake the Proposed Project or to grant the Financial Assistance. This Agreement does not purport to summarize or contain all the conditions, covenants, representations, warranties and other provisions that would be contained in the definitive documentation between the Agency and the Applicant relating to the Proposed Project.

Article 4. General Provisions.

Section 4.01. (A) All notices and other communications hereunder shall be in writing and shall be deemed given (i) when mailed by United States registered or certified mail, postage prepaid, return receipt requested, (ii) when delivered by hand delivery to the undersigned, or (iii) the date of delivery (or refusal) after deposit with Federal Express or other nationally recognized overnight courier for next business day delivery, addressed as follows:

(1) To the Agency:

County of Chautauqua Industrial Development Agency  
201 West 3rd Street, Suite 115  
Jamestown, NY 14701  
Attn: Mark Geise

(2) To the Applicant:

Barnes Road Solar, LLC  
143 West Street, Suite 201C  
New Milford, CT 06776  
Attn: Matthew Longman

(B) The Agency and the Applicant may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

Section 4.02. All covenants and agreements herein contained by or on behalf of the Agency and the Applicant shall bind and inure to the benefit of the respective permitted successors and assigns of the Agency and the Applicant, as the case may be, whether so expressed or not.

Section 4.03. The obligations and agreements of the Agency contained herein shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent or employee of the Agency in his individual capacity, and the members, officers, agents and employees of the Agency shall not be liable personally hereon or be subject to any personal liability or accountability based upon or in respect hereof or of any transaction contemplated hereby. The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or of the County, and neither the State of New York nor the County, shall be liable thereon; and further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project Facility.

Section 4.04. Notwithstanding any provision of this Agreement to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (A) the Agency shall have been requested to do so in writing by the Applicant; and (B) if compliance with such request is reasonably expected to result in the incurrence by the Agency (or any member, officer, agent or employee of the Agency) of any liability, fees, expenses or other costs, the Agency shall have received from the Applicant security or indemnity satisfactory to the Agency for protection against all such liability and for the reimbursement of all such fees, expenses and other costs.

Section 4.05. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Signatures by facsimile or in Portable Document Format shall be deemed to constitute originals.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date and year first written above.

BARNES ROAD SOLAR, LLC

COUNTY OF CHAUTAUQUA INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_

Name:

Title:

By: Richard E Dixon \_\_\_\_\_

Name: Richard E. Dixon

Title: CFO

**SL Portland (Fay) Due Diligence Resolution**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on May 24, 2022, at 10:00 A.M., local time, at (i) the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”), and (ii) the SUNY Incubator, 214 Central Avenue, Dunkirk, County of Chautauqua, New York (the “Incubator”), and was conducted by videoconferencing in compliance with Section 103-a of the New York State Public Officers Law.

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

**PRESENT:**

Michael Metzger	Chairman	Incubator
Hans Auer	Treasurer	IDA Office
Gary Henry	Secretary	IDA Office
Steven Thorpe	Member	IDA Office
Brad Walters	Member	IDA Office
Kevin Muldowney	Member	Incubator
Rhonda Johnson	Member	IDA Office

**NOT PRESENT:**

Dennis J. Rak	Vice Chairman
Jay Churchill	Member

**THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:**

Mark Geise	Administrative Director/CEO
Richard E. Dixon	Chief Financial Officer
Milan K. Tyler, Esq.	Counsel
Greg Peterson	Counsel
Rosie Strandburg	CCIDA Staff
Jeanette Lo Bello	CCIDA Staff
Carol Rasmussen	CCIDA Staff
Kristine Morabito	CCIDA Staff
Kayla Strandburg	CCIDA Staff
Jason Toczydlowski	CCIDA Staff
Crystal Erhard	CCIDA Staff
Nate Aldrich	CCIDA Staff
Nathan Rizzo	Solar Liberty
Adam Rizzo	Solar Liberty

The attached resolution no. 05-24-22-03 was offered by Hans Auer, seconded by Kevin Muldowney:

RESOLUTION APPROVING UNDERTAKING DUE DILIGENCE FOR A CERTAIN PROJECT FOR SL PORTLAND COMMUNITY, LLC AND/OR ITS AFFILIATES AND AUTHORIZING THE EXECUTION AND DELIVERY OF A DUE DILIGENCE AGREEMENT WITH RESPECT TO SUCH TRANSACTION

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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 manufacturing, industrial and commercial 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 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, SL PORTLAND COMMUNITY, LLC, a limited liability company duly organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign limited liability company (the “Applicant”), presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 16.3 acre parcel of land located at 8682 Fay Street, Town of Portland, Chautauqua County, New York (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on a fixed tilt system, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 3.6 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase),

license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the Agency has given due consideration to the Application and to the representations made by the Applicant therein, in certain supplemental documents and at this meeting, including, without limitation, representations of the Applicant that: (A) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Applicant to undertake the Project in the County of Chautauqua, New York; (B) the completion of the Project and the leasing and operation of the Project Facility by the Applicant and/or its related designee will not result in the removal of a facility or plant of the Applicant, such related designee or any other occupant of the Project Facility from one area of the State of New York (the "State") to another area of the State or in the abandonment of one or more plants or facilities of the Applicant, such related designee or any other occupant of the Project Facility in the State; (C) the Project Facility will not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project; (D) the Project will serve the public purposes of the Act by preserving permanent, private sector jobs and increasing the overall number of permanent, private sector jobs in the State; and (E) the granting of the Financial Assistance by the Agency will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of the County of Chautauqua, New York, and improve their standard of living, and prevent unemployment and economic deterioration, and thereby serve the public purposes of the Act; and

WHEREAS, any approval of the Project is contingent upon, among other things, a final determination by the members of the Agency to proceed with the Project following determinations by the Agency that: (A) the public hearing and notice requirements and other procedural requirements contained in the Act relating to the Project and the Financial Assistance have been satisfied; and (B) the undertaking of the Project by the Agency and the granting of the Financial Assistance are and will be in compliance with all other applicable requirements of the Act, Article 8 of the Environmental Conservation Law (the "SEQR Act") and the regulations adopted pursuant thereto (the "Regulations" and together with the SEQR Act, collectively, "SEQRA"), and all other statutes, codes, laws, rules and regulations of any governmental authority having jurisdiction over the Project or the Project Facility (collectively, the "Applicable Laws"); and

WHEREAS, the Agency desires to encourage the Applicant to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of the County of Chautauqua, New York, and to prevent unemployment and economic deterioration, by undertaking the Project in the County of Chautauqua, New York; and

WHEREAS, although a resolution authorizing the undertaking of the Project has not yet been submitted for approval by the Agency, a due diligence agreement (the "Due Diligence Agreement") relative to the proposed undertaking of the Project by the Agency has been presented for approval by the Agency;

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

Section 1. The Agency hereby authorizes the Administrative Director/CEO of the Agency, prior to the granting of any Financial Assistance with respect to the Project: (A) to establish a time, date and place (if applicable) for a public hearing (the “Public Hearing”) of the Agency to hear all persons interested in the location and nature of the Project and the proposed Financial Assistance being contemplated by the Agency with respect to the Project, said Public Hearing to be held in the city, town or village within which the Project Facility is or will be located, subject to Applicable Laws; (B) to cause notice of said Public Hearing to be given to the public by publishing a notice of said Public Hearing in a newspaper of general circulation available to residents of the governmental units within which the Project Facility is or will be located, such notice to comply with the requirements of and to be published in accordance with the requirements of the Act; (C) to cause notice of said Public Hearing, pursuant to the Act, to be given to the chief executive officer of the County of Chautauqua, New York, and of each city, town, village, school district and other affected tax jurisdiction in which the Project Facility is or will be located; (D) to conduct the Public Hearing or to authorize a hearing officer to conduct the Public Hearing in accordance with the Act; (E) to cause a report of the Public Hearing fairly summarizing the views presented at said Public Hearing to be promptly prepared and cause copies of said report to be made available to the members of the Agency; and (F) to otherwise comply with all other procedural and other requirements imposed on the Agency pursuant to Applicable Laws with respect to the Project and/or the Financial Assistance.

Section 2. The Applicant is hereby authorized to conduct such environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary or convenient to enable the Agency to make its determination whether to proceed with the Project and to grant the Financial Assistance; provided, however, that such authorization shall not entitle or permit the Applicant to commence the acquisition, construction, installation or equipping of the Project Facility unless and until the Agency shall determine that all requirements of Applicable Laws have been fulfilled. The officers, agents and employees of the Agency are hereby directed to proceed to do such things or perform such acts as may allow the Agency to proceed to its final consideration of the Project. This Resolution constitutes an authorization to conduct concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning with respect to the Project within the meaning of Section 617.3(c)(2) of the Regulations and a determination of compliance with technical requirements within the meaning of Section 617.3(c)(2) of the Regulations and does not constitute, and shall not be deemed to constitute, either an approval by the Agency of the Project for the purposes of the Act or SEQRA or a commitment by the Agency to approve the Project or to grant the Financial Assistance.

Section 3. Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Applicant as set forth in the Due Diligence Agreement.

Section 4. The findings of the Agency set forth herein are expressly conditioned upon full compliance of the Applicant, the Project and the Project Facility with all Applicable



Laws, and the Applicant shall be required to provide evidence of same satisfactory to the Agency prior to the granting of any Financial Assistance.

Section 5. If, following full compliance with all Applicable Laws, the Agency adopts a future resolution (the “Future Resolution”) determining to proceed with the Project and to grant the Financial Assistance, or any portion thereof, with respect to the Project and the Applicant complies with all conditions set forth in the Due Diligence Agreement and the Future Resolution, then the Agency will (A) acquire an interest in the Project Facility pursuant to a deed, lease agreement, assignment of lease, license, bill of sale and/or other documentation to be negotiated between the Agency and the Applicant (the “Company Lease”); (B) lease (with the obligation to purchase), license or sell the Project Facility to the Applicant or related designee pursuant to an agency lease agreement or an installment sale agreement (the “Agency Lease”) to be negotiated between the Agency and the Applicant; and (C) provide the Financial Assistance with respect to the Project, all as contemplated by the Due Diligence Agreement and the Future Resolution.

Section 6. The form, terms and substance of the Due Diligence Agreement (in substantially the form presented at this meeting) are in all respects approved, and the Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized, empowered and directed, acting individually or jointly, to execute and deliver said Due Diligence Agreement in the name and on behalf of the Agency, with such changes therein as shall be approved by the officer executing same on behalf of the Agency, the execution thereof by such officer to constitute conclusive evidence of such officer’s approval of any and all changes or revisions therein from the form now before this meeting, and the Agency hereby ratifies and approves any action heretofore taken by the Agency with respect to the Due Diligence Agreement.

Section 7. From and after the execution and delivery of the Due Diligence Agreement, the officers, agents and employees of the Agency are hereby authorized, empowered and directed, acting individually or jointly, 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 the Due Diligence Agreement as and when executed.

Section 8. The law firm of Phillips Lytle LLP, Jamestown, New York, is hereby appointed Counsel to the Agency with respect to all matters in connection with the Project. Counsel for the Agency is hereby authorized, at the expense of the Applicant, to work with the Applicant, counsel to the Applicant, and others to prepare, for submission to the Agency, all documents necessary to effect the transactions contemplated by this Resolution.

Section 9. The Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 10. 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:

Michael Metzger	AYE
Dennis J. Rak	ABSENT
Hans Auer	AYE
Gary Henry	AYE
Steven Thorpe	AYE
Brad Walters	AYE
Rhonda Johnson	AYE
Jay Churchill	ABSENT
Kevin Muldowney	AYE

The foregoing Resolution was thereupon declared duly adopted.

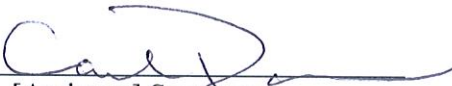
STATE OF NEW YORK            )  
  ) SS.:  
COUNTY OF CHAUTAUQUA    )

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 24, 2022 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) the meeting was duly held by videoconferencing in compliance with the requirements of Section 103-a of the Open Meetings Law, including, but not limited to, the notice provisions of such Section; (E) there was a quorum of the members of the Agency present throughout said meeting and the minimum number of members required for a quorum was physically present at one of the locations specified in the notice of the meeting, (F) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law; (G) members of the public were permitted to view such meeting via video and to participate in the proceedings via videoconference in real time to the same extent that that public participation was permitted to members of the public present in person.

WE 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, we have hereunto set our hand this 24<sup>th</sup> day of May, 2022.

  
\_\_\_\_\_  
[Assistant] Secretary

  
\_\_\_\_\_  
[Vice] Chairman

## DUE DILIGENCE AGREEMENT

THIS DUE DILIGENCE AGREEMENT (this "Agreement") dated as of the 24th day of May, 2022, between the COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY (the "Agency"), a public benefit corporation organized and existing under the laws of the State of New York, and SL PORTLAND COMMUNITY, LLC, a limited liability company duly organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign limited liability company (the "Applicant").

### WITNESSETH:

WHEREAS, the Agency is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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 manufacturing, industrial and commercial 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 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, the Applicant presented an application for financial assistance (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Proposed Project") consisting of the following: (A)(1) the acquisition of an interest in an approximately 16.3 acre parcel of land located at 8682 Fay Street, Town of Portland, Chautauqua County, New York (collectively, the "Land"), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on a fixed tilt system, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the "Improvements"), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the "Equipment" and together with the Land and the Improvements, collectively, the "Project Facility"), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 3.6 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the "Financial Assistance"); and

(C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the members of the Agency require the execution and delivery of this Agreement by the Applicant as a condition to the Agency's consideration of the Proposed Project;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Agency and the Applicant agree as follows:

Article 1. Representations; No Commitments.

Section 1.01. The Applicant hereby represents to the Agency that:

(A) Based on the proposed use of the Project Facility, the economic effects of the Proposed Project on the area in which it is situated and the prevention of economic deterioration in the County of Chautauqua (the "County"), the Proposed Project would constitute a commercial facility with a significant impact on the area in which it is situated, and would advance the Agency's purposes by preventing economic deterioration in the County. Therefore, the Proposed Project would constitute a "project" within the meaning of the Act.

(B) The execution, delivery and performance by the Applicant of this Agreement have been duly authorized by all necessary company action, and this Agreement has been duly executed and delivered by the Applicant and is the legal, valid and binding obligation of the Applicant enforceable against the Applicant in accordance with its terms.

(C) The Project Facility does not and will not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project Facility. For purposes of this representation, retail sales shall mean: (i) sales by a registered vendor under Article 28 of the New York Tax Law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of Section 1101 of the New York Tax Law; or (ii) sales of a service to such customers.

(D) The undertaking of the Proposed Project will not result in the removal of a facility or plant of the Applicant from one area of the State of New York to another area of the State of New York or in the abandonment of one or more plants or facilities of the Applicant located in the State of New York (but outside the County). Therefore, the provisions of subdivision (1) of Section 862 of the Act would not be violated as a result of the granting of the Financial Assistance by the Agency to the Applicant.

(E) Each owner, occupant or operator that would receive Financial Assistance with respect to the Proposed Project is in substantial compliance with applicable federal, state and local tax, worker protection and environmental laws, rules and regulations.

(F) As of the date of this Agreement, the Applicant is in substantial compliance with all provisions of Article 18-A of the General Municipal Law, including, but not limited to, the provisions of Section 859-a and Section 862(1) thereof.

(G) The granting by the Agency of the Financial Assistance with respect to the Proposed Project would be an inducement to the Applicant to undertake the Proposed Project in the County.

(H) The Applicant would not undertake the Proposed Project in the County without the granting of the Financial Assistance by the Agency.

(I) The Project Facility is located entirely within the boundaries of the Town of Portland, County of Chautauqua, and the Brocton Central School District and is not located within the boundaries of any incorporated village or city.

(J) The Applicant plans to invest a total of at least \$5,426,763.07 in the Project Facility.

(K) The Application is and remains true, accurate and complete in all respects as of the date hereof.

Section 1.02. The Transactions Committee of the Agency has approved the execution of this Agreement. The Agency intends this Agreement to constitute its binding commitment, subject to the terms hereof, to accept the Application; provided, however, that this Agreement shall not commit the Agency to undertake the Proposed Project or to grant to the Applicant any Financial Assistance with respect to the Proposed Project. The members of the Agency shall decide, in their sole and absolute discretion, whether or not to undertake the Proposed Project and to grant such Financial Assistance, and then only following a determination by the members of the Agency that all requirements of applicable laws, rules and regulations and the policies and procedures of the Agency (collectively, "Legal Requirements") have been fulfilled.

Article 2. Undertakings on the Part of the Agency.

Based upon the statements, representations and undertakings of the Applicant, and subject to the conditions set forth herein, the Agency agrees as follows:

Section 2.01. The Agency shall undertake formal consideration of the Proposed Project

and the Financial Assistance relating to the Proposed Project, subject to the conditions contained in this Agreement, including, but not limited to, the provision of Section 1.02 above and the following conditions:

(A) The Agency shall receive, in form and substance satisfactory to the Agency, such rulings, approvals, resolutions, consents, certificates, opinions of counsel and other instruments and proceedings as shall be specified by the Agency in connection with the Proposed Project and the various documents to be executed in connection with the Proposed Project;

(B) The Applicant shall provide the Agency and all other “involved/interested agencies” with all information and statements that may be required by said respective entities to ensure compliance by said entities with the New York State Environmental Quality Review Act and the regulations promulgated thereunder (collectively, “SEQRA”);

(C) The Applicant shall comply with and shall provide the Agency with all information, documentation and statements required for the Agency to comply with the requirements of all Legal Requirements; and

(D) The Applicant shall pay all expenses incurred by the Agency in connection with the Proposed Project (including, without limitation, counsel fees and disbursements) and shall pay all fees of the Agency.

### Article 3. Undertakings on the Part of the Applicant.

Based upon the statements, representations and undertakings of the Agency and subject to the conditions set forth herein, the Applicant agrees as follows:

Section 3.01. The Applicant hereby agrees to indemnify, defend (with counsel selected by the Agency) and hold the Agency (and its members, officers, agents, attorneys and employees) harmless from any and all liability, damages, causes of actions, losses, costs or expenses incurred by the Agency in connection with: (A) examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application, the Proposed Project or the Financial Assistance are favorably acted upon by the Agency, (B) the acquisition, construction, installation and equipping of the Project Facility, and (C) any further action taken by the Agency with respect to the Proposed Project; including, without limiting the generality of the foregoing, (i) all fees and expenses of the Agency’s general counsel, transaction counsel, economic development consultant, real property tax valuation consultant and other experts and consultants (if deemed necessary or advisable by the Agency) heretofore or hereafter incurred, and (ii) all other expenses incurred by the Agency in defending any suits, actions or proceedings that may arise as a result of any of the foregoing. If, for any reason whatsoever, the Agency decides not to proceed with consideration of the Application or the proposed Project or the Applicant fails to conclude or consummate necessary negotiations or fails within a reasonable or specified period of time to take reasonable, proper or requested action or withdraws, abandons, cancels, or neglects the Application or if the Applicant is unable to secure third party financing, if required, or

otherwise fails to conclude the Proposed Project, then upon presentation of an invoice by the Agency, its agents, attorneys or assigns, the Applicant shall pay to the Agency, its agents, attorneys or assigns, as the case may be, all fees and expenses reflected in any such invoice.

Section 3.02. The Applicant agrees that each of the Agency's general counsel, transaction counsel, economic development consultant, real property tax valuation consultant and other experts and consultants is an intended third-party beneficiary of this Agreement, and that each of them may (but shall not be obligated to) enforce the provisions of Section 3.01 of this Agreement, whether by lawsuit or otherwise, to collect the fees and expenses of such party or person incurred by the Agency (whether or not first paid by the Agency) with respect to the Application. The Applicant further agrees that the Agency may (but shall not be obligated to) directly enforce the provisions of Section 3.01 of this Agreement against the Applicant, whether by lawsuit or otherwise, to collect such fees and expenses.

Section 3.03. The Applicant will take such further action and adopt such further proceedings as the Agency may deem necessary to implement its aforesaid undertakings or as the Agency may deem appropriate in pursuance thereof.

Section 3.04. This Agreement is intended to facilitate discussion regarding the Proposed Project, and neither this Agreement nor any discussions or course of conduct between the parties or their representatives shall constitute an agreement, offer or legally binding commitment by the Agency to undertake the Proposed Project or to grant the Financial Assistance. This Agreement does not purport to summarize or contain all the conditions, covenants, representations, warranties and other provisions that would be contained in the definitive documentation between the Agency and the Applicant relating to the Proposed Project.

Article 4. General Provisions.

Section 4.01. (A) All notices and other communications hereunder shall be in writing and shall be deemed given (i) when mailed by United States registered or certified mail, postage prepaid, return receipt requested, (ii) when delivered by hand delivery to the undersigned, or (iii) the date of delivery (or refusal) after deposit with Federal Express or other nationally recognized overnight courier for next business day delivery, addressed as follows:

- (1) To the Agency:

County of Chautauqua Industrial Development Agency  
201 West 3rd Street, Suite 115  
Jamestown, NY 14701  
Attn: Mark Geise

- (2) To the Applicant:

SL Portland Community, LLC



57 Exchange Street, Suite 100  
Portland, ME 04101  
Attn: Nathan Rizzo

(B) The Agency and the Applicant may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

Section 4.02. All covenants and agreements herein contained by or on behalf of the Agency and the Applicant shall bind and inure to the benefit of the respective permitted successors and assigns of the Agency and the Applicant, as the case may be, whether so expressed or not.

Section 4.03. The obligations and agreements of the Agency contained herein shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent or employee of the Agency in his individual capacity, and the members, officers, agents and employees of the Agency shall not be liable personally hereon or be subject to any personal liability or accountability based upon or in respect hereof or of any transaction contemplated hereby. The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or of the County, and neither the State of New York nor the County, shall be liable thereon; and further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project Facility.

Section 4.04. Notwithstanding any provision of this Agreement to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (A) the Agency shall have been requested to do so in writing by the Applicant; and (B) if compliance with such request is reasonably expected to result in the incurrence by the Agency (or any member, officer, agent or employee of the Agency) of any liability, fees, expenses or other costs, the Agency shall have received from the Applicant security or indemnity satisfactory to the Agency for protection against all such liability and for the reimbursement of all such fees, expenses and other costs.

Section 4.05. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Signatures by facsimile or in Portable Document Format shall be deemed to constitute originals.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date and year first written above.


SL PORTLAND COMMUNITY, LLC

COUNTY OF CHAUTAUQUA INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_

Name:

Title:

By:  \_\_\_\_\_

Name: Richard E. Dixon

Title: CFO

## SL Portland (Route 20) Due Diligence Resolution

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on May 24, 2022, at 10:00 A.M., local time, at (i) the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”), and (ii) the SUNY Incubator, 214 Central Avenue, Dunkirk, County of Chautauqua, New York (the “Incubator”), and was conducted by videoconferencing in compliance with Section 103-a of the New York State Public Officers Law.

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

### PRESENT:

Michael Metzger	Chairman	Incubator
Hans Auer	Treasurer	IDA Office
Gary Henry	Secretary	IDA Office
Steven Thorpe	Member	IDA Office
Brad Walters	Member	IDA Office
Kevin Muldowney	Member	Incubator
Rhonda Johnson	Member	IDA Office

### NOT PRESENT:

Dennis J. Rak	Vice Chairman
Jay Churchill	Member

### THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Mark Geise	Administrative Director/CEO
Richard E. Dixon	Chief Financial Officer
Milan K. Tyler, Esq.	Counsel
Greg Peterson	Counsel
Rosie Strandburg	CCIDA Staff
Jeanette Lo Bello	CCIDA Staff
Carol Rasmussen	CCIDA Staff
Kristine Morabito	CCIDA Staff
Kayla Strandburg	CCIDA Staff
Jason Toczydlowski	CCIDA Staff
Crystal Erhard	CCIDA Staff
Nate Aldrich	CCIDA Staff
Nathan Rizzo	Solar Liberty
Adam Rizzo	Solar Liberty

The attached resolution no. 05-24-22-04 was offered by Steve Thorpe, seconded by Brad Walters:

Resolution No. 05-24-22-04

RESOLUTION APPROVING UNDERTAKING DUE DILIGENCE FOR A CERTAIN PROJECT FOR SL PORTLAND COMMUNITY, LLC AND/OR ITS AFFILIATES AND AUTHORIZING THE EXECUTION AND DELIVERY OF A DUE DILIGENCE AGREEMENT WITH RESPECT TO SUCH TRANSACTION

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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 manufacturing, industrial and commercial 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 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, SL PORTLAND COMMUNITY, LLC, a limited liability company duly organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign limited liability company (the “Applicant”), presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 17.23 acre parcel of land located at Route 20.(PARCEL NO. 161.00-1-42), Portland, Chautauqua County, New York (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on a fixed tilt tracking system, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 3.92 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with

an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the Agency has given due consideration to the Application and to the representations made by the Applicant therein, in certain supplemental documents and at this meeting, including, without limitation, representations of the Applicant that: (A) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Applicant to undertake the Project in the County of Chautauqua, New York; (B) the completion of the Project and the leasing and operation of the Project Facility by the Applicant and/or its related designee will not result in the removal of a facility or plant of the Applicant, such related designee or any other occupant of the Project Facility from one area of the State of New York (the "State") to another area of the State or in the abandonment of one or more plants or facilities of the Applicant, such related designee or any other occupant of the Project Facility in the State; (C) the Project Facility will not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project; (D) the Project will serve the public purposes of the Act by preserving permanent, private sector jobs and increasing the overall number of permanent, private sector jobs in the State; and (E) the granting of the Financial Assistance by the Agency will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of the County of Chautauqua, New York, and improve their standard of living, and prevent unemployment and economic deterioration, and thereby serve the public purposes of the Act; and

WHEREAS, any approval of the Project is contingent upon, among other things, a final determination by the members of the Agency to proceed with the Project following determinations by the Agency that: (A) the public hearing and notice requirements and other procedural requirements contained in the Act relating to the Project and the Financial Assistance have been satisfied; and (B) the undertaking of the Project by the Agency and the granting of the Financial Assistance are and will be in compliance with all other applicable requirements of the Act, Article 8 of the Environmental Conservation Law (the "SEQR Act") and the regulations adopted pursuant thereto (the "Regulations" and together with the SEQR Act, collectively, "SEQRA"), and all other statutes, codes, laws, rules and regulations of any governmental authority having jurisdiction over the Project or the Project Facility (collectively, the "Applicable Laws"); and

WHEREAS, the Agency desires to encourage the Applicant to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of the County of Chautauqua, New York, and to prevent unemployment and economic deterioration, by undertaking the Project in the County of Chautauqua, New York; and

WHEREAS, although a resolution authorizing the undertaking of the Project has not yet been submitted for approval by the Agency, a due diligence agreement (the "Due Diligence Agreement") relative to the proposed undertaking of the Project by the Agency has been presented for approval by the Agency;

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

Section 1. The Agency hereby authorizes the Administrative Director/CEO of the Agency, prior to the granting of any Financial Assistance with respect to the Project: (A) to establish a time, date and place (if applicable) for a public hearing (the “Public Hearing”) of the Agency to hear all persons interested in the location and nature of the Project and the proposed Financial Assistance being contemplated by the Agency with respect to the Project, said Public Hearing to be held in the city, town or village within which the Project Facility is or will be located, subject to Applicable Laws; (B) to cause notice of said Public Hearing to be given to the public by publishing a notice of said Public Hearing in a newspaper of general circulation available to residents of the governmental units within which the Project Facility is or will be located, such notice to comply with the requirements of and to be published in accordance with the requirements of the Act; (C) to cause notice of said Public Hearing, pursuant to the Act, to be given to the chief executive officer of the County of Chautauqua, New York, and of each city, town, village, school district and other affected tax jurisdiction in which the Project Facility is or will be located; (D) to conduct the Public Hearing or to authorize a hearing officer to conduct the Public Hearing in accordance with the Act; (E) to cause a report of the Public Hearing fairly summarizing the views presented at said Public Hearing to be promptly prepared and cause copies of said report to be made available to the members of the Agency; and (F) to otherwise comply with all other procedural and other requirements imposed on the Agency pursuant to Applicable Laws with respect to the Project and/or the Financial Assistance.

Section 2. The Applicant is hereby authorized to conduct such environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary or convenient to enable the Agency to make its determination whether to proceed with the Project and to grant the Financial Assistance; provided, however, that such authorization shall not entitle or permit the Applicant to commence the acquisition, construction, installation or equipping of the Project Facility unless and until the Agency shall determine that all requirements of Applicable Laws have been fulfilled. The officers, agents and employees of the Agency are hereby directed to proceed to do such things or perform such acts as may allow the Agency to proceed to its final consideration of the Project. This Resolution constitutes an authorization to conduct concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning with respect to the Project within the meaning of Section 617.3(c)(2) of the Regulations and a determination of compliance with technical requirements within the meaning of Section 617.3(c)(2) of the Regulations and does not constitute, and shall not be deemed to constitute, either an approval by the Agency of the Project for the purposes of the Act or SEQRA or a commitment by the Agency to approve the Project or to grant the Financial Assistance.

Section 3. Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Applicant as set forth in the Due Diligence Agreement.

Section 4. The findings of the Agency set forth herein are expressly conditioned upon full compliance of the Applicant, the Project and the Project Facility with all Applicable

Laws, and the Applicant shall be required to provide evidence of same satisfactory to the Agency prior to the granting of any Financial Assistance.

Section 5. If, following full compliance with all Applicable Laws, the Agency adopts a future resolution (the “Future Resolution”) determining to proceed with the Project and to grant the Financial Assistance, or any portion thereof, with respect to the Project and the Applicant complies with all conditions set forth in the Due Diligence Agreement and the Future Resolution, then the Agency will (A) acquire an interest in the Project Facility pursuant to a deed, lease agreement, assignment of lease, license, bill of sale and/or other documentation to be negotiated between the Agency and the Applicant (the “Company Lease”); (B) lease (with the obligation to purchase), license or sell the Project Facility to the Applicant or related designee pursuant to an agency lease agreement or an installment sale agreement (the “Agency Lease”) to be negotiated between the Agency and the Applicant; and (C) provide the Financial Assistance with respect to the Project, all as contemplated by the Due Diligence Agreement and the Future Resolution.

Section 6. The form, terms and substance of the Due Diligence Agreement (in substantially the form presented at this meeting) are in all respects approved, and the Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized, empowered and directed, acting individually or jointly, to execute and deliver said Due Diligence Agreement in the name and on behalf of the Agency, with such changes therein as shall be approved by the officer executing same on behalf of the Agency, the execution thereof by such officer to constitute conclusive evidence of such officer’s approval of any and all changes or revisions therein from the form now before this meeting, and the Agency hereby ratifies and approves any action heretofore taken by the Agency with respect to the Due Diligence Agreement.

Section 7. From and after the execution and delivery of the Due Diligence Agreement, the officers, agents and employees of the Agency are hereby authorized, empowered and directed, acting individually or jointly, 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 the Due Diligence Agreement as and when executed.

Section 8. The law firm of Phillips Lytle LLP, Jamestown, New York, is hereby appointed Counsel to the Agency with respect to all matters in connection with the Project. Counsel for the Agency is hereby authorized, at the expense of the Applicant, to work with the Applicant, counsel to the Applicant, and others to prepare, for submission to the Agency, all documents necessary to effect the transactions contemplated by this Resolution.

Section 9. The Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 10. 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:

Michael Metzger	AYE
Dennis J. Rak	ABSENT
Hans Auer	AYE
Gary Henry	AYE
Steven Thorpe	AYE
Brad Walters	AYE
Rhonda Johnson	AYE
Jay Churchill	ABSENT
Kevin Muldowney	AYE

The foregoing Resolution was thereupon declared duly adopted.



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

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 24, 2022 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) the meeting was duly held by videoconferencing in compliance with the requirements of Section 103-a of the Open Meetings Law, including, but not limited to, the notice provisions of such Section; (E) there was a quorum of the members of the Agency present throughout said meeting and the minimum number of members required for a quorum was physically present at one of the locations specified in the notice of the meeting, (F) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law; (G) members of the public were permitted to view such meeting via video and to participate in the proceedings via videoconference in real time to the same extent that that public participation was permitted to members of the public present in person.

WE 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, we have hereunto set our hand this 24<sup>th</sup> day of May, 2022.

  
\_\_\_\_\_  
[Assistant] Secretary

  
\_\_\_\_\_  
[Vice] Chairman

## DUE DILIGENCE AGREEMENT

THIS DUE DILIGENCE AGREEMENT (this "Agreement") dated as of the 24th day of May, 2022, between the COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY (the "Agency"), a public benefit corporation organized and existing under the laws of the State of New York, and SL PORTLAND COMMUNITY, LLC, a limited liability company duly organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign limited liability company (the "Applicant").

### WITNESSETH:

WHEREAS, the Agency is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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 manufacturing, industrial and commercial 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 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, the Applicant presented an application for financial assistance (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Proposed Project") consisting of the following: (A)(1) the acquisition of an interest in an approximately 17.23 acre parcel of land located at Route 20.(PARCEL NO. 161.00-1-42), Portland, Chautauqua County, New York (collectively, the "Land"), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on a fixed tilt tracking system, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the "Improvements"), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the "Equipment" and together with the Land and the Improvements, collectively, the "Project Facility"), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 3.92 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the "Financial

Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the members of the Agency require the execution and delivery of this Agreement by the Applicant as a condition to the Agency’s consideration of the Proposed Project;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Agency and the Applicant agree as follows:

Article 1. Representations; No Commitments.

Section 1.01. The Applicant hereby represents to the Agency that:

(A) Based on the proposed use of the Project Facility, the economic effects of the Proposed Project on the area in which it is situated and the prevention of economic deterioration in the County of Chautauqua (the “County”), the Proposed Project would constitute a commercial facility with a significant impact on the area in which it is situated, and would advance the Agency’s purposes by preventing economic deterioration in the County. Therefore, the Proposed Project would constitute a "project" within the meaning of the Act.

(B) The execution, delivery and performance by the Applicant of this Agreement have been duly authorized by all necessary company action, and this Agreement has been duly executed and delivered by the Applicant and is the legal, valid and binding obligation of the Applicant enforceable against the Applicant in accordance with its terms.

(C) The Project Facility does not and will not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project Facility. For purposes of this representation, retail sales shall mean: (i) sales by a registered vendor under Article 28 of the New York Tax Law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of Section 1101 of the New York Tax Law; or (ii) sales of a service to such customers.

(D) The undertaking of the Proposed Project will not result in the removal of a facility or plant of the Applicant from one area of the State of New York to another area of the State of New York or in the abandonment of one or more plants or facilities of the Applicant located in the State of New York (but outside the County). Therefore, the provisions of subdivision (1) of Section 862 of the Act would not be violated as a result of the granting of the Financial Assistance by the Agency to the Applicant.

(E) Each owner, occupant or operator that would receive Financial Assistance with respect to the Proposed Project is in substantial compliance with applicable federal, state and local tax, worker protection and environmental laws, rules and regulations.

(F) As of the date of this Agreement, the Applicant is in substantial compliance with all provisions of Article 18-A of the General Municipal Law, including, but not limited to, the provisions of Section 859-a and Section 862(1) thereof.

(G) The granting by the Agency of the Financial Assistance with respect to the Proposed Project would be an inducement to the Applicant to undertake the Proposed Project in the County.

(H) The Applicant would not undertake the Proposed Project in the County without the granting of the Financial Assistance by the Agency.

(I) The Project Facility is located entirely within the boundaries of the Town of Portland, County of Chautauqua, and the Brocton Central School District and is not located within the boundaries of any incorporated village or city.

(J) The Applicant plans to invest a total of at least \$7,002,274.93 in the Project Facility.

(K) The Application is and remains true, accurate and complete in all respects as of the date hereof.

Section 1.02. The Transactions Committee of the Agency has approved the execution of this Agreement. The Agency intends this Agreement to constitute its binding commitment, subject to the terms hereof, to accept the Application; provided, however, that this Agreement shall not commit the Agency to undertake the Proposed Project or to grant to the Applicant any Financial Assistance with respect to the Proposed Project. The members of the Agency shall decide, in their sole and absolute discretion, whether or not to undertake the Proposed Project and to grant such Financial Assistance, and then only following a determination by the members of the Agency that all requirements of applicable laws, rules and regulations and the policies and procedures of the Agency (collectively, "Legal Requirements") have been fulfilled.

Article 2. Undertakings on the Part of the Agency.

Based upon the statements, representations and undertakings of the Applicant, and subject to the conditions set forth herein, the Agency agrees as follows:

Section 2.01. The Agency shall undertake formal consideration of the Proposed Project

and the Financial Assistance relating to the Proposed Project, subject to the conditions contained in this Agreement, including, but not limited to, the provision of Section 1.02 above and the following conditions:

(A) The Agency shall receive, in form and substance satisfactory to the Agency, such rulings, approvals, resolutions, consents, certificates, opinions of counsel and other instruments and proceedings as shall be specified by the Agency in connection with the Proposed Project and the various documents to be executed in connection with the Proposed Project;

(B) The Applicant shall provide the Agency and all other “involved/interested agencies” with all information and statements that may be required by said respective entities to ensure compliance by said entities with the New York State Environmental Quality Review Act and the regulations promulgated thereunder (collectively, “SEQRA”);

(C) The Applicant shall comply with and shall provide the Agency with all information, documentation and statements required for the Agency to comply with the requirements of all Legal Requirements; and

(D) The Applicant shall pay all expenses incurred by the Agency in connection with the Proposed Project (including, without limitation, counsel fees and disbursements) and shall pay all fees of the Agency.

### Article 3. Undertakings on the Part of the Applicant.

Based upon the statements, representations and undertakings of the Agency and subject to the conditions set forth herein, the Applicant agrees as follows:

Section 3.01. The Applicant hereby agrees to indemnify, defend (with counsel selected by the Agency) and hold the Agency (and its members, officers, agents, attorneys and employees) harmless from any and all liability, damages, causes of actions, losses, costs or expenses incurred by the Agency in connection with: (A) examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application, the Proposed Project or the Financial Assistance are favorably acted upon by the Agency, (B) the acquisition, construction, installation and equipping of the Project Facility, and (C) any further action taken by the Agency with respect to the Proposed Project; including, without limiting the generality of the foregoing, (i) all fees and expenses of the Agency’s general counsel, transaction counsel, economic development consultant, real property tax valuation consultant and other experts and consultants (if deemed necessary or advisable by the Agency) heretofore or hereafter incurred, and (ii) all other expenses incurred by the Agency in defending any suits, actions or proceedings that may arise as a result of any of the foregoing. If, for any reason whatsoever, the Agency decides not to proceed with consideration of the Application or the proposed Project or the Applicant fails to conclude or consummate necessary negotiations or fails within a reasonable or specified period of time to take reasonable, proper or requested action or withdraws, abandons, cancels, or neglects the Application or if the Applicant is unable to secure third party financing, if required, or

otherwise fails to conclude the Proposed Project, then upon presentation of an invoice by the Agency, its agents, attorneys or assigns, the Applicant shall pay to the Agency, its agents, attorneys or assigns, as the case may be, all fees and expenses reflected in any such invoice.

Section 3.02. The Applicant agrees that each of the Agency's general counsel, transaction counsel, economic development consultant, real property tax valuation consultant and other experts and consultants is an intended third-party beneficiary of this Agreement, and that each of them may (but shall not be obligated to) enforce the provisions of Section 3.01 of this Agreement, whether by lawsuit or otherwise, to collect the fees and expenses of such party or person incurred by the Agency (whether or not first paid by the Agency) with respect to the Application. The Applicant further agrees that the Agency may (but shall not be obligated to) directly enforce the provisions of Section 3.01 of this Agreement against the Applicant, whether by lawsuit or otherwise, to collect such fees and expenses.

Section 3.03. The Applicant will take such further action and adopt such further proceedings as the Agency may deem necessary to implement its aforesaid undertakings or as the Agency may deem appropriate in pursuance thereof.

Section 3.04. This Agreement is intended to facilitate discussion regarding the Proposed Project, and neither this Agreement nor any discussions or course of conduct between the parties or their representatives shall constitute an agreement, offer or legally binding commitment by the Agency to undertake the Proposed Project or to grant the Financial Assistance. This Agreement does not purport to summarize or contain all the conditions, covenants, representations, warranties and other provisions that would be contained in the definitive documentation between the Agency and the Applicant relating to the Proposed Project.

Article 4. General Provisions.

Section 4.01. (A) All notices and other communications hereunder shall be in writing and shall be deemed given (i) when mailed by United States registered or certified mail, postage prepaid, return receipt requested, (ii) when delivered by hand delivery to the undersigned, or (iii) the date of delivery (or refusal) after deposit with Federal Express or other nationally recognized overnight courier for next business day delivery, addressed as follows:

- (1) To the Agency:

County of Chautauqua Industrial Development Agency  
201 West 3rd Street, Suite 115  
Jamestown, NY 14701  
Attn: Mark Geise

- (2) To the Applicant:

SL Portland Community, LLC

57 Exchange Street, Suite 100  
Portland, ME 04101  
Attn: Nathan Rizzo

(B) The Agency and the Applicant may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

Section 4.02. All covenants and agreements herein contained by or on behalf of the Agency and the Applicant shall bind and inure to the benefit of the respective permitted successors and assigns of the Agency and the Applicant, as the case may be, whether so expressed or not.

Section 4.03. The obligations and agreements of the Agency contained herein shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent or employee of the Agency in his individual capacity, and the members, officers, agents and employees of the Agency shall not be liable personally hereon or be subject to any personal liability or accountability based upon or in respect hereof or of any transaction contemplated hereby. The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or of the County, and neither the State of New York nor the County, shall be liable thereon; and further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project Facility.

Section 4.04. Notwithstanding any provision of this Agreement to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (A) the Agency shall have been requested to do so in writing by the Applicant; and (B) if compliance with such request is reasonably expected to result in the incurrence by the Agency (or any member, officer, agent or employee of the Agency) of any liability, fees, expenses or other costs, the Agency shall have received from the Applicant security or indemnity satisfactory to the Agency for protection against all such liability and for the reimbursement of all such fees, expenses and other costs.

Section 4.05. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Signatures by facsimile or in Portable Document Format shall be deemed to constitute originals.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date and year first written above.

SL PORTLAND COMMUNITY, LLC

COUNTY OF CHAUTAUQUA INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_

Name:

Title:

By: Richard E Dixon \_\_\_\_\_

Name: Richard E. Dixon

Title: CFO





County of Chautauqua Industrial Development Agency

**Board of Directors**

Michael Metzger  
Chairman  
Vice President Finance &  
Administration  
SUNY Fredonia

Dennis Rak  
Vice-Chair  
Owner/Operator –  
Double A Vineyards and  
Double A Willow

Hans Auer  
Treasurer  
First Vice President -  
UBS Wealth Management  
Americas

Gary Henry  
Secretary  
Owner  
Fancher Chair Co., Inc.

Kevin Muldowney  
PED Chair

Brad Walters  
Executive Director -  
Southern Tier Builders  
Association

Steven Thorpe  
President –  
Sheet Metal Workers Local  
Union No 112

Rhonda Johnson  
President – Weber Knapp

Jay Churchill  
Owner – Jamestown Electro  
Plating

**RESOLUTION NUMBER 05-24-22-05  
OF THE MEMBERS OF  
COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY  
TO APPROVE AN EDA RLF LOAN TO  
BEMUS POINT IN RESTAURANT**

**MAY 24, 2022**

Resolution authorizing an EDA RLF Loan to Bemus Point Inn Restaurant, Inc. in the amount of \$88,000.00 for machinery and equipment purposes and \$162,000.00 for working capital purposes.

**WHEREAS**, the County of Chautauqua Industrial Development Agency (“CCIDA”) has been presented with an EDA RLF application from Bemus Point Inn Restaurant (the “Company”) for the purpose of machinery and equipment and working capital purposes. The loan requests are in the amount of **\$88,000.00 for machinery and equipment and \$162,000.00 for working capital.** The loan term is 7 years (“Term”) at 2.44% interest (collectively, the “Loan”) with 6 months of interest only payments followed by 78 months of principal and interest payments.

**WHEREAS**, the loan shall be secured by (i) a subordinate lien all accounts receivables, fixtures, furnishings, machinery, equipment, inventory and assets of the Company (ii) unlimited personal guarantee of Laurie L. Miller, and

**WHEREAS**, life insurance on the life of Laurie L. Miller is waived, and

**WHEREAS**, the Company shall maintain fire and hazard insurance on all corporate assets, with CCIDA listed as assignee and loss payee in an amount equal to the outstanding indebtedness to CCIDA at all times over the course of the loan, and

**NOW THEREFORE, BE IT RESOLVED**, that the Administrative Director, Chairman, or any officer of CCIDA, are hereby authorized by the Members to sign any and all documents and other instruments necessary in order to effectuate the above.

By   
Authorized Representative

Date 05/24/2022

**Omni French Creek Solar  
Deviation Approval Resolution**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on May 24, 2022, at 10:00 A.M., local time, at (i) the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”), and (ii) the SUNY Fredonia Tech Incubator, 214 Central Avenue, Dunkirk, County of Chautauqua, New York (the “Incubator”), and was conducted by videoconferencing in compliance with Section 103-a of the New York State Public Officers Law.

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

PRESENT:

Michael Metzger	Chairman	Incubator
Hans Auer	Treasurer	IDA Office
Gary Henry	Secretary	IDA Office
Steven Thorpe	Member	IDA Office
Brad Walters	Member	IDA Office
Kevin Muldowney	Member	Incubator
Rhonda Johnson	Member	IDA Office

NOT PRESENT:

Dennis J. Rak	Vice Chairman
Jay Churchill	Member

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Mark Geise	Administrative Director/CEO
Richard E. Dixon	Chief Financial Officer
Milan K. Tyler, Esq.	Counsel
Greg Peterson	Counsel
Carol Rasmussen	CCIDA Staff
Rosie Strandburg	CCIDA Staff
Kayla Strandburg	CCIDA Staff
Jason Toczydlowski	CCIDA Staff
Kristine Morabito	CCIDA Staff
Crystal Erhard	CCIDA Staff
Nate Aldrich	CCIDA Staff
Peter McAuliffe	Omni Navitas Solar Energy

The attached resolution no. 05-24-22-06 was offered by Rhonda Johnson, seconded by Hans Auer:

The attached resolution no. 05-24-22-06 was offered by Rhonda Johnson, seconded by Hans Auer:

Resolution No. 05-24-22-06

**RESOLUTION AUTHORIZING A DEVIATION FROM THE UNIFORM  
TAX EXEMPTION POLICY OF THE COUNTY OF CHAUTAUQUA  
INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT  
TO A PROJECT FOR OMNI FRENCH CREEK SOLAR, LLC AND/OR  
ITS AFFILIATES**

**WHEREAS**, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the Laws of 1969 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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, 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, OMNI FRENCH CREEK SOLAR, LLC**, a limited liability company duly organized and existing under the laws of the State of New York (the “Applicant”), presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 23 acre portion of an approximately 65 acre parcel of land located at 10256 Old Road, Town of French Creek, Chautauqua County, New York (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on a 1-axis tracking steel structure, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 3.33 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General

Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

**WHEREAS**, the Application states that the Applicant is seeking an exemption from real property taxes with respect to the Improvements that, if granted, would constitute a deviation from the Agency’s established Uniform Tax Exemption Policy and Guidelines (the “Tax Exemption Policy”) that is published on the Agency’s website; and

**WHEREAS**, in accordance with Section 874(4) of the Act, (A) the Administrative Director/CEO of the Agency caused letters dated May 5, 2022 (the “Pilot Deviation Notice Letters”) to be mailed to the chief executive officer of each affected tax jurisdiction, informing said individuals that the Agency would, at its meeting on May 24, 2022 (the “IDA Meeting”), consider a proposed deviation from the Tax Exemption Policy with respect to the payment in lieu of taxes agreement to be entered into by the Agency with respect to the Improvements; and (B) the members of the Agency conducted the IDA Meeting on the date hereof and reviewed any comments and correspondence received with respect to the proposed deviation from the Tax Exemption Policy; and

**WHEREAS**, the Agency desires to provide for compliance with the provisions of Section 874(4) of the Act with respect to the proposed deviation from the Tax Exemption Policy;

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

Section 1. The Agency hereby determines that the Agency has fully complied with the requirements of Section 874(4) of the Act relating to the proposed deviation from the Tax Exemption Policy.

Section 2. Prior to making the determinations set forth in this Resolution, the members of the Agency have considered and weighed all of the factors set forth in the Tax Exemption Policy.

Section 3. Having reviewed all written comments and correspondence received at or prior to the IDA Meeting, the Agency hereby approves the proposed deviation from the Tax Exemption Policy as described in the Pilot Deviation Notice Letters (copies of which are attached hereto as Exhibit A) because the Property Tax Exemption (as defined in the Pilot Deviation Notice Letters) is necessary to induce the Applicant to undertake the Project in Chautauqua County. Deviating from the Policy in this instance will advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and Chautauqua County.

Section 4. The Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized and directed, acting individually or jointly, to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution. If the Agency hereafter adopts appropriate final approving resolutions with respect to the proposed straight-lease transaction with the Applicant (the “Transaction”), the Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized and directed, acting individually or jointly, to cause the Agency to (A) enter into a Payment in Lieu of Taxes Agreement providing for, among other things, the making of payments in lieu of property taxes consistent with the Pilot Deviation Notice Letters, and (B) file an application for real property tax exemption with the appropriate assessor(s) with respect to the Improvements.

Section 5. This Resolution shall take effect immediately, but is subject to and conditioned upon the closing of the Transaction.

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

Michael Metzger	AYE
Dennis J. Rak	ABSENT
Hans Auer	AYE
Gary Henry	AYE
Steven Thorpe	AYE
Brad Walters	AYE
Jay Churchill	ABSENT
Kevin Muldowney	AYE
Rhonda Johnson	AYE

The foregoing Resolution was thereupon declared duly adopted.



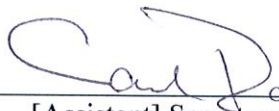
STATE OF NEW YORK            )  
  ) SS.:  
COUNTY OF CHAUTAUQUA    )

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 24, 2022 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) the meeting was duly held by videoconferencing in compliance with the requirements of Section 103-a of the Open Meetings Law, including, but not limited to, the notice provisions of such Section; (E) there was a quorum of the members of the Agency present throughout said meeting and the minimum number of members required for a quorum was physically present at one of the locations specified in the notice of the meeting, (F) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law; (G) members of the public were permitted to view such meeting via video and to participate in the proceedings via videoconference in real time to the same extent that that public participation was permitted to members of the public present in person.

WE 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, we have hereunto set our hand this 24<sup>th</sup> day of May, 2022.

  
\_\_\_\_\_  
[Assistant] Secretary

  
\_\_\_\_\_  
[Vice] Chairman

**EXHIBIT A**

Pilot Deviation Notice Letters

See Attached



County of Chautauqua Industrial Development Agency

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May 5, 2022

**CERTIFIED MAIL/RETURN RECEIPT**

Chautauqua County Executive, Paul M. Wendel, Jr.  
Gerace Office Building  
3 N. Erie Street  
Mayville, NY 14757

Beth Olson, Superintendent  
Clymer School District  
8672 E. Main Street  
Clymer, NY 14724

Charles Dobrow, School Board President  
Clymer School District  
8672 E. Main Street  
Clymer, NY 14724

David White  
Supervisor Town of French Creek  
10106 Ravlin Hill Rd.  
Clymer, NY 14724

**NOTICE OF PROPOSED DEVIATION FROM UNIFORM  
TAX EXEMPTION POLICY AND GUIDELINES**

Ladies and Gentlemen:

Notice is hereby given that at a meeting of the County of Chautauqua Industrial Development Agency (the "Agency") to be held on May 24, 2022 at 10:00 a.m., local time, at the offices of the Agency, 201 West Third Street, Jamestown, County of Chautauqua, New York, the Agency will consider whether to approve the application of OMNI FRENCH CREEK SOLAR, LLC, a limited liability company duly organized and existing

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201 W. Third Street, Suite 115, Jamestown, NY 14701-6902  
PH 716-661-8900 / FAX 716-664-4515  
[ccida@ccida.com](mailto:ccida@ccida.com)







County of Chautauqua Industrial Development Agency

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under the laws of the State of New York (the “Applicant”), for certain “financial assistance” which, if granted, would deviate from the Agency’s Uniform Tax Exemption Policy and Guidelines (the “Policy”) with respect to the payment of real property taxes.

The Applicant submitted an application for financial assistance (the “Application”) to the Agency requesting that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 23 acre portion of an approximately 65 acre parcel of land located at 10256 Old Road, Town of French Creek, Chautauqua County, New York (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on a 1-axis tracking steel structure, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 3.33 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency.

The Project Facility would be initially owned, operated and/or managed by the Applicant (or such other designated entity (ies) as may be designated by the Applicant and agreed upon by the Agency).

The Application states that the Applicant is seeking an abatement of real property taxes with respect the Project Facility. Based upon negotiations between representatives of the Applicant and the Agency, the parties contemplate that the Agency may agree to grant a real property tax exemption with respect to the Improvements only (the “Property Tax Exemption”). The Property Tax Exemption would result in a payment in lieu of taxes (“PILOT”) agreement between the Agency and the Applicant and/or its affiliates having a term of twenty-five (25) fiscal tax years (the “PILOT Term”), with annual PILOT payments with respect to the Improvements as follows:

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201 W. Third Street, Suite 115, Jamestown, NY 14701-6902  
PH 716-661-8900 / FAX 716-664-4515  
[ccida@ccida.com](mailto:ccida@ccida.com)





County of Chautauqua Industrial Development Agency

<b>PILOT Year</b>	<b>Annual PILOT Payment</b>
1	\$3,725 per Megawatt A/C
2	Year 1 PILOT Payment increased by 2%
3	Year 2 PILOT Payment increased by 2%
4	Year 3 PILOT Payment increased by 2%
5	Year 4 PILOT Payment increased by 2%
6	Year 5 PILOT Payment increased by 2%
7	Year 6 PILOT Payment increased by 2%
8	Year 7 PILOT Payment increased by 2%
9	Year 8 PILOT Payment increased by 2%
10	Year 9 PILOT Payment increased by 2%
11	Year 10 PILOT Payment increased by 2%
12	Year 11 PILOT Payment increased by 2%
13	Year 12 PILOT Payment increased by 2%
14	Year 13 PILOT Payment increased by 2%
15	Year 14 PILOT Payment increased by 2%
16	Year 15 PILOT Payment increased by 2%
17	Year 16 PILOT Payment increased by 2%
18	Year 17 PILOT Payment increased by 2%
19	Year 18 PILOT Payment increased by 2%
20	Year 19 PILOT Payment increased by 2%
21	Year 20 PILOT Payment increased by 2%
22	Year 21 PILOT Payment increased by 2%
23	Year 22 PILOT Payment increased by 2%
24	Year 23 PILOT Payment increased by 2%
25	Year 24 PILOT Payment increased by 2%

No exemption from real property taxes and assessments would be granted by the Agency with respect to the Land or the existing improvements thereon and the Land and such improvements would remain on the tax rolls as taxable property subject to taxation at their then current, full assessed value, as the same may be reassessed from time to time, and subject to tax rate increases imposed by the affected tax jurisdictions.

Thereafter, and through the end of the term of the lease or installment sale agreement with respect to the Project Facility, the payments would be equal to the real property taxes and assessments that would be payable as if the Improvements were returned to the tax rolls as taxable property and subject to taxation at its then

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County of Chautauqua Industrial Development Agency

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current, full assessed value, as the same may be reassessed from time to time, and subject to tax rate increases imposed by the affected tax jurisdictions.

The Property Tax Exemption, if approved by the Agency, would be a deviation from the Policy.

The reason for the proposed deviation is that the Property Tax Exemption, if approved by the Agency, is necessary to induce the Applicant to undertake the Project in Chautauqua County. Deviating from the Policy in this instance will advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and Chautauqua County.

The meeting will be streamed on the Agency's website in real-time and a recording of the meeting will be posted on the Agency's website, all in accordance with Section 857 of the New York General Municipal Law, as amended.

Copies of the Application, including the request for a deviation from the Policy, are available for review by the public online at [www.ccida.com](http://www.ccida.com). For additional assistance, contact the Agency at (716) 661-8900.

COUNTY OF CHAUTAUQUA INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_

Richard E. Dixon  
Chief Financial Officer

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201 W. Third Street, Suite 115, Jamestown, NY 14701-6902  
PH 716-661-8900 / FAX 716-664-4515  
[ccida@ccida.com](mailto:ccida@ccida.com)



**Omni French Creek Solar -  
SEQRA Resolution**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on May 24, 2022, at 10:00 A.M., local time, at (i) the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”), and (ii) the SUNY Fredonia Tech Incubator, 214 Central Avenue, Dunkirk, County of Chautauqua, New York (the “Incubator”), and was conducted by videoconferencing in compliance with Section 103-a of the New York State Public Officers Law.

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

PRESENT:

Michael Metzger	Chairman	Incubator
Hans Auer	Treasurer	IDA Office
Gary Henry	Secretary	IDA Office
Steven Thorpe	Member	IDA Office
Brad Walters	Member	IDA Office
Kevin Muldowney	Member	Incubator
Rhonda Johnson	Member	IDA Office

NOT PRESENT:

Dennis J. Rak	Vice Chairman
Jay Churchill	Member

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Mark Geise	Administrative Director/CEO
Richard E. Dixon	Chief Financial Officer
Milan K. Tyler, Esq.	Counsel
Greg Peterson	Counsel
Carol Rasmussen	CCIDA Staff
Rosie Strandburg	CCIDA Staff
Kayla Strandburg	CCIDA Staff
Jason Toczydlowski	CCIDA Staff
Kristine Morabito	CCIDA Staff
Crystal Erhard	CCIDA Staff
Nate Aldrich	CCIDA Staff
Peter McAuliffe	Omni Navitas Solar Energy

The attached resolution no. 05-24-22-07 was offered by Gary Henry, seconded by Rhonda Johnson

**Resolution No. 5-24-22-07**

RESOLUTION OF THE COUNTY OF CHAUTAUQUA INDUSTRIAL  
DEVELOPMENT AGENCY PURSUANT TO THE STATE  
ENVIRONMENTAL QUALITY REVIEW ACT CONCERNING THE  
DETERMINATION OF SIGNIFICANCE FOR A CERTAIN PROJECT FOR  
OMNI FRENCH CREEK SOLAR, LLC AND/OR ITS AFFILIATES

**Name of Project:** Omni French Creek Solar

**Location:** 10256 Old Road, Town of French Creek, Chautauqua County, New York

**SEQR Status:** Type I

**Determination  
of Significance:** Negative Declaration

**WHEREAS**, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of the New York State Industrial Development Agency Act, 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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, renovating, improving, maintaining, equipping and furnishing of commercial 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, among other things, (i) acquire by purchase, lease, gift, bequest, devise or otherwise real or personal property or interests therein; and (ii) 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**, OMNI FRENCH CREEK SOLAR, LLC, a limited liability company duly organized and existing under the laws of the State of New York (the “Applicant”), presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 23 acre portion of an approximately 65 acre parcel of land located at 10256 Old Road, Town of French Creek,

Chautauqua County, New York (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on a 1-axis tracking steel structure, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 3.33 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

**WHEREAS**, pursuant to Article 8 of the New York 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 (“NYSDEC”), being 6 NYCRR Part 617, et. seq., 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 whether to undertake the Project; and

**WHEREAS**, on April 22, 2022, the Agency caused to be transmitted to all other potentially Interested and Involved Agencies: (1) a cover letter describing the Project; (2) a copy of the Project Application; (2) a notice of intent to act as Lead Agency; (3) a list of potentially Involved Agencies; (4) a Full Environmental Assessment Form Part I; and (5) an acknowledgement form for the Agency to act as Lead Agency; and

**WHEREAS**, the other potentially Involved and Interested Agencies included: Town of French Creek Town Board, Town of French Creek Planning Board, Town of French Creek Zoning Board of Appeals, Chautauqua County Planning Board, Chautauqua County Public Works, New York State Department of Environmental Conservation, New York State Department of Health, New York State Energy Research & Development Authority, New York State Historic Preservation Office, New York Natural Heritage Program, the United States Army Corps of Engineers, and the United States Fish and Wildlife Services; and

**WHEREAS**, no other potentially Involved Agency disputed the Agency’s declaration of Lead Agency status within 30 days; and

**WHEREAS**, the Agency is Lead Agency for the Project and undertook a coordinated review pursuant to 6 N.Y.C.R.R. 617.6(b)(3) of the Regulations; and

**WHEREAS**, pursuant to SEQRA, to aid the Agency in determining whether the Project

may have a significant adverse impact upon the environment, the Agency has received and reviewed: (1) a Part 1 of a Full Environmental Assessment Form dated February 3, 2022 (the “EAF”); (2) NYSDEC’s Environmental Resource Mapper (“NYSDEC Mapper”); (3) the New York State Cultural Resource Information System (“CRIS”); (4) an Application for Financial Assistance dated February 24, 2022 (“PILOT Application”); (5) a Wetland Delineation Map dated November 8, 2021 (“Wetlands Delineation”) (6) an email from the Applicant on May 9, 2022 clarifying certain parts of the EAF (“Applicant Email”); (7) a Final Determination from the New York State Department of Agriculture and Markets (“NYSDAM”) dated June 9, 2021 (“NYSDAM NOI Letter”); and (8) other relevant environmental information (collectively, 1-8 shall be referred to as the “Environmental Information”); and

**WHEREAS**, prior to making a recommendation about the potential environmental significance of the Project, the Agency has reviewed the Environmental Information, consulted various information sources, and considered the list of activities which are Type I Actions outlined in Section 617.4 of the SEQRA regulations, the list of activities that are Type II Actions outlined in Section 617.5 of the SEQRA regulations and the criteria for determining significance outlined in Section 617.7 of the SEQRA regulations; and

**WHEREAS**, a thorough analysis of the Environmental Information and potential environmental impacts associated with the Project reveals that the Project will not have any potentially significant adverse environmental impacts; and

**WHEREAS**, it is appropriate that the Agency issue a negative declaration pursuant to SEQRA for the Project.

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

**Section 1.** Based upon a thorough review and examination of the Project and Environmental Information, and upon the Agency’s knowledge of the area surrounding the Land and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings with respect to the Project:

- (A) The Project is Type I Action pursuant to SEQRA, as the Project involves the construction and operation of solar-powered electrical generation facilities totaling over 10 acres of disturbance;
- (B) The Agency has undertaken a coordinated review of the Project in accordance with the requirements of SEQRA; and
- (C) No potentially significant adverse impacts on the environment are noted in the Environmental Information and none are known to the Agency.

**Section 2.** Based upon the Agency’s review of the Environmental Information and

investigations of the potential environmental impacts associated with the Project, considering both the magnitude and importance of each potential environmental impact indicated, and upon the Agency's knowledge of the Land and surrounding area and such further investigations of the Project and its environmental effects as the Agency has deemed appropriate, the Agency has determined that the Project will not have a significant adverse impact upon the environment. The reasons supporting this determination are as follows:

1. Impact on Land. The Project consists of the installation of an approximately 3.33 megawatt A/C solar-powered electrical generation facility. Approximately 7 acres of the approximately 23 acre portion of the 65 acre parcel will be physically disturbed by the Project. As noted in the Applicant Email, there will be approximately 52 rows of solar panels.

The Site is zoned Rural/Agricultural, and as noted in the EAF, a Special Use Permit was issued for the Project. The Project is consistent with the Land's zoning classification and will not impact or deter existing or future adjacent land use. In addition, there will be minimal physical disturbance of land to install the solar arrays as the arrays do not have large physical footprints, and the Land is relatively level, without steep slopes.

The average depth to the water table at the Site is at least 6.5 feet, and there are no bedrock outcroppings on the Site. The Project does not involve any excavation, mining or dredging and will be completed in a single phase. The Project will create only 1 acre of new impervious surfaces compared to the total parcel size of 65 acres, and no new point sources are proposed. While there will be temporary runoff during construction, it will be discharged onsite and controlled by stormwater and sediment/erosion control best management practices as set out in the Stormwater Pollution Prevention Plan to be prepared by the Applicant. Further, as noted in the Application, the panels will be on a tracking steel structure and will rotate thorough the day, minimizing any drip effect due to stormwater.

As noted in the EAF and NYSDEC Mapper, the Project is not within a Coastal Area, a waterfront area of a Designated Inland Waterway, an area with an approved Local Waterfront Revitalization Program or a Coastal Erosion Hazard Area. Based on the foregoing, the Project is not anticipated to create any potentially significant adverse impacts to land resources or land use.

2. Impact on Geological Features. The Project does not contain and is not adjacent to any unique geologic features or National Natural Landmarks. Accordingly, the Project will not create any potentially significant adverse impacts to geological features.
3. Impact on Surface Water. The EAF notes that the Land contains approximately 28.4 acres of wetlands which will not be disturbed by the Project. While the nearby stream and surrounding wetland areas are likely federal waters which would require Clean Water Act Section 404 permits, the Project avoids stream and wetland impacts by keeping all work away from the stream and wetland areas.



Further, as mentioned above the EAF demonstrates that the Project will minimize new impervious surfaces, creating only 1 additional acre of such surfaces. Lastly, the EAF demonstrates that no additional water demand will be created by the Project. Accordingly, the Project will not create any significant adverse impacts on surface water.

4. Impact on Groundwater. The EAF also demonstrates that the Project will not create a new demand for water, generate or discharge liquid wastes, or involve bulk storage of chemicals or production of hazardous waste or any other activities that would pose a threat to groundwater. The EAF notes that a “general [amount] of constr[uction] debris” will be generated per year during construction consisting largely of packaging waste, which will be recycled and reused to the extent possible during construction. As noted in the Applicant Email, there will be no solid waste generated during operation. Solid waste generated onsite will be recycled to the extent possible and other materials will be properly disposed of in a landfill. Accordingly, the Project is not anticipated to create any significant adverse impacts to groundwater.
5. Impact on Flooding. The EAF states that the Project will not result in the development of lands which are subject to flooding and does not include the impoundment of water. The Project is not within a designated floodway, the 100-year or 500-year floodplain.

The Project will be constructed in accordance with any applicable local laws for flood damage prevention. Additionally, onsite stormwater management facilities will ensure that any stormwater runoff is adequately managed. Accordingly, the Project is not anticipated to create any significant adverse impacts to flooding.

6. Impact on Air. The Project will not include significant sources of air emissions. The Project does not entail the types of activities or operations that require the Applicant to obtain air registration permits or that are associated with a significant potential for air emissions. As demonstrated in the EAF, any impacts to air quality from construction activities will be minor and temporary in nature.

Additionally, the Project will produce clean energy which will benefit local residents and the environment by replacing energy sources which involve the combustion of fossil fuels and air emissions with clean energy. Accordingly, the Project is not anticipated to create any significant adverse impacts to air resources.

7. Impact on Plants and Animals. As noted in the EAF, the Project will result in the conversion of approximately 23 acres of agricultural lands to meadows, grasslands, brushlands or abandoned agricultural use.

The NYSDEC Mapper identifies the spotted darter (*etheostoma maculatum*), a freshwater fish, as a threatened species designated by the NYSDEC that may be present on the Site. Spotted darters are extremely localized and uncommon and reside in medium-sized streams with clean gravel. Because the Project is designed to avoid the onsite stream,

there will be no impact to the spotted darter.

Although some impacts to flora and fauna will occur from the construction of the Project as a result of the conversion of forested and agricultural areas to a solar farm, the neither the EAF nor the NYSDEC Mapper identify any other threatened, endangered, rare, or special concern species that may potentially be found on or near the Site.

There are no predominant wildlife species that occupy or use the site, and the Project will not substantially interfere with the nesting/breeding, foraging or over-wintering habitat for any species or otherwise reduce the value of the surrounding land to any species. Moreover, the Project will not involve the use of pesticides during construction or operation. Accordingly, the Project is not anticipated to create any significant adverse impacts on plants and animals.

8. Impact on Agricultural Land Resources. The EAF notes that the Project is located in a designated agricultural district, CHAU002, and will result in the conversion of farmland to a solar farm, and as a result an Agricultural Data Statement was completed. Because the Site is within an agricultural district, the New York State Energy Research and Development Authority (NYSERDA) submitted the Project for NYSDAM's consideration in pursuant to the Notice of Intent process. In the NYSDAM NOI Letter, NYSDAM certified that the Project will not have an unreasonably adverse effect on the continuing viability of farm enterprises within the district. In addition, the Applicant will obtain a waiver from the owner of the Land with respect to the Agency prior to any conversion of the Land

The Project will comply with the Agricultural Data Statement requirements including notifications to adjoining farmers and the County Agricultural Board. NYSDAM considers the placement of solar panels on a property a permanent conversion of agricultural land. However, the Project will comply with all NYSDAM guidelines for the protection and restoration of farm soils during construction and decommissioning to minimize any impacts to agricultural lands, including "Guidelines for Solar Energy Projects - Construction Management for Agricultural Lands."

The EAF also notes that the Site consists of highly productive soils. According to the USDA Web Soil Survey, approximately 37.5 acres on the Site consists of land with highly productive soils. Approximately 75.5% of the Site is well drained, while the remaining 24.5% is poorly to moderately well drained.

Moreover, the Project includes only a small fraction of the overall agricultural land located in the region and will not result in increased development pressure on farmland or significantly decreased agricultural land in the County. Accordingly, the Project will not create any significant adverse impacts to agricultural land. In addition, the Agency has also determined, pursuant to Agriculture and Markets Law Section 305(4), that to the maximum extent practicable, adverse agricultural impacts have been minimized or avoided for the Project.

9. Impact on Aesthetic Resources. The EAF notes that the Project is not within “fives [sic] miles” of any officially designated and publicly accessible federal, state or local scenic or aesthetic resources. Any resulting visual impacts will be minor in nature, since the Project does not have a large visual profile and is otherwise aesthetically unobtrusive. Further, much of the forested area will be retained to provide natural screening for the Project. Moreover, the Project will comply with the screening and setback requirements of the Town of French Creek Solar Energy Law, Local Law #3 of 2021. Accordingly, the Project is not anticipated to create any significant adverse impacts to aesthetic resources.
10. Impact on Historic and Archaeological Resources. The EAF notes that the Land is not located in an area flagged as sensitive for archaeological resources, and that no properties determined to be eligible for listing (or actually listed) on the National or State Register of Historic Places are included in (or substantially contiguous to) the Land. Accordingly, the Project will not create any significant impacts to historic or archeological resources.
11. Impact on Open Space and Recreation. The Site is not in an area listed in an adopted municipal open space plan, is not used by members of the community for public recreation, and neither the Site nor any adjoining area is used for hunting, trapping, fishing or shell fishing. Accordingly, the Project will not create any significant impacts to open space or recreational resources.
12. Impact on Critical Environmental Areas. The Project is not located in or substantially contiguous to any Critical Environmental Areas. Accordingly, the Project will not create any significant impacts to Critical Environmental Areas.
13. Impact on Transportation. The Project does not involve the types of activities or operations that would be associated with an increased flow of traffic. Accordingly, the Project is not anticipated to create any significant adverse impacts on transportation.
14. Impact on Energy. The Project will not generate any new or additional demand for energy. Rather, the Project will be a source of clean, renewable energy which will benefit the community and the environment. Accordingly, the Project will not create any significant adverse impacts on energy.
15. Impact on Noise, Odor and Light. The Project is not expected to appreciably create odors or excessive lighting. The Project is expected to increase noise levels during the 6 month construction period from Monday through Saturday during the hours of 7:00 AM to 7:00 PM. Further, any impacts to noise or odor from construction activities will be minor and temporary in nature. Moreover, as noted in the Applicant Email, existing natural noise barriers will not be removed.

The Project will also involve the installation of temporary lighting at the laydown area during construction and a single permanent dark-sky complaint motion-detecting light

will be installed at the solar panel array's entrance. Accordingly, the Project will not create any significant adverse impacts on noise, odor or light.

16. Impact on Public Health. The Project does not involve the types of activities or operations that are associated with a significant potential for affecting public health, including the use, creation, disposal or storage of a hazardous or toxic substance. Further, any solid waste generated at the Site will be properly disposed of pursuant to Federal, State and local laws and regulations. Further, as noted in the EAF, the Project will avoid the disposal of solid waste through recycling and reuse of construction debris in accordance with all necessary State guidelines. Accordingly, the Project is not anticipated to create any significant adverse impact to public health.
17. Impact on Character of the Community and Community Plans. The Project will provide clean, renewable energy for the area. This use is consistent with the underlying goals behind the Town of French Creek Solar Energy Law, Local Law #3 of 2021, which seeks to diversify personal and community energy resources to support the State's renewable energy policy while protecting the environmental, historic and rural character of the Town intact.

While the Project results in the conversion of agricultural land to a solar farm, the Project is not anticipated to result in secondary development effects or significant population growth. Additionally, the Town's Solar Energy Law imposes screening, setback and other requirements to protect adjacent properties from impacts. Accordingly, the Project will not create any significant adverse impacts to the character of the community or community plans.

**Section 3.** Since the Project will not have a significant adverse impact on the environment, a negative declaration ("Negative Declaration") pursuant to SEQRA is hereby issued. This Negative Declaration has been prepared pursuant to and in accordance with the requirements of SEQRA.

**Section 4.** The Chairman, the Vice Chairman, the Executive Director and the Administrative Director of the Agency are hereby further authorized on behalf of the Agency, or acting together or individually, to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

**Section 5.** This Resolution, which is adopted by a majority vote of the Agency, shall serve as the Negative Declaration (as defined in 6 N.Y.C.R.R. 617.2(y)) for the Project, and is issued by the Agency pursuant to and in accordance with SEQRA in a coordinated environmental impact review, shall take effect immediately.

**Section 6.** For further information on this Negative Declaration contact:

County of Chautauqua Industrial Development Agency

201 West 3rd Street, Suite 115  
Jamestown, New York 14701-6902  
ATTN: Mark Geise, Administrative Director/CEO  
Phone: 716-661-8900  
Fax: 716-664-4515

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

Michael Metzger	AYE
Dennis J. Rak	ABSENT
Hans Auer	AYE
Gary Henry	AYE
Steven Thorpe	AYE
Brad Walters	AYE
Jay Churchill	ABSENT
Kevin Muldowney	AYE
Rhonda Johnson	AYE

The foregoing Resolution was thereupon declared duly adopted.

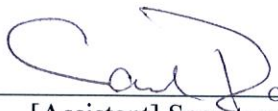
STATE OF NEW YORK            )  
  ) SS.:  
COUNTY OF CHAUTAUQUA    )

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 24, 2022 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) the meeting was duly held by videoconferencing in compliance with the requirements of Section 103-a of the Open Meetings Law, including, but not limited to, the notice provisions of such Section; (E) there was a quorum of the members of the Agency present throughout said meeting and the minimum number of members required for a quorum was physically present at one of the locations specified in the notice of the meeting, (F) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law; (G) members of the public were permitted to view such meeting via video and to participate in the proceedings via videoconference in real time to the same extent that that public participation was permitted to members of the public present in person.

WE 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, we have hereunto set our hand this 24<sup>th</sup> day of May, 2022.

  
\_\_\_\_\_  
[Assistant] Secretary

  
\_\_\_\_\_  
[Vice] Chairman

**Omni French Creek Solar -  
Approving Resolution**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on May 24, 2022, at 10:00 A.M., local time, at (i) the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”), and (ii) the SUNY Fredonia Tech Incubator, 214 Central Avenue, Dunkirk, County of Chautauqua, New York (the “Incubator”), and was conducted by videoconferencing in compliance with Section 103-a of the New York State Public Officers Law.

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

PRESENT:

Michael Metzger	Chairman	Incubator
Hans Auer	Treasurer	IDA Office
Gary Henry	Secretary	IDA Office
Steven Thorpe	Member	IDA Office
Brad Walters	Member	IDA Office
Kevin Muldowney	Member	Incubator
Rhonda Johnson	Member	IDA Office

NOT PRESENT:

Dennis J. Rak	Vice Chairman
Jay Churchill	Member

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Mark Geise	Administrative Director/CEO
Richard E. Dixon	Chief Financial Officer
Milan K. Tyler, Esq.	Counsel
Greg Peterson	Counsel
Carol Rasmussen	CCIDA Staff
Rosie Strandburg	CCIDA Staff
Kayla Strandburg	CCIDA Staff
Jason Toczydlowski	CCIDA Staff
Kristine Morabito	CCIDA Staff
Crystal Erhard	CCIDA Staff
Nate Aldrich	CCIDA Staff
Peter McAuliffe	Omni Navitas Solar Energy

The attached resolution no. 05-24-22-08 was offered by Brad Walters, seconded by Kevin Muldowney:

**RESOLUTION TAKING OFFICIAL ACTION TOWARD AND APPROVING THE  
STRAIGHT LEASE DOCUMENTS FOR A CERTAIN PROJECT FOR  
OMNI FRENCH CREEK SOLAR, LLC AND/OR ITS AFFILIATES**

**WHEREAS**, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the Laws of 1969 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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, 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**, OMNI FRENCH CREEK SOLAR, LLC, a limited liability company duly organized and existing under the laws of the State of New York (the “Applicant”), presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 23 acre portion of an approximately 65 acre parcel of land located at 10256 Old Road, Town of French Creek, Chautauqua County, New York (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on a 1-axis tracking steel structure, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 3.33 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase),



license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

**WHEREAS**, in accordance with Section 859-a of the Act, any approval of the Project is contingent upon, inter alia, a determination by the members of the Agency to proceed with the Project following a determination by the Agency that (A) the public hearing and notice requirements and other procedural requirements contained in the Act relating to the Project have been satisfied; and (B) the undertaking of the Project by the Agency and the granting of the Financial Assistance are and will be in compliance with all other applicable requirements of the Act, SEQRA (as hereinafter defined), and all other statutes, codes, laws, rules and regulations of any governmental authority having jurisdiction over the Project and/or the Project Facility (collectively, the “Applicable Laws”); and

**WHEREAS**, the Administrative Director/CEO of the Agency (A) caused notice of a public hearing of the Agency pursuant to Section 859-a of the Act (the “Public Hearing”) to hear all persons interested in the Project and the Financial Assistance contemplated by the Agency with respect to the Project, to be mailed on May 2, 2022 to the chief executive officer of the County of Chautauqua (the “County”) and of each other affected tax jurisdiction within which the Project Facility is or is to be located, and posted a copy of the Application on the Agency’s website; (B) caused notice of the Public Hearing to be published on May 3, 2022 in *The Observer*, a newspaper of general circulation available to residents of the County; (C) caused the Public Hearing to be conducted on May 16, 2022, at 11:00 a.m., local time, at Town Hall, 10106 Ravlin Hill Road, Clymer, Town of French Creek, County of Chautauqua, New York; (D) caused the Public Hearing to be streamed on the Agency’s website in real-time and a recording of the Public Hearing to be posted on the Agency’s website, all in accordance with Section 857 of the Act, as amended; and (E) caused a written report of the Public Hearing to be prepared which fairly summarizes the views presented at the Public Hearing and collected written comments from the public (collectively, the “Report”) and distributed the Report to the members of the Agency; 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 (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the appropriate personnel of the Agency reviewed the environmental assessment form and other materials submitted by the Applicant and made any necessary comments to the members of the Agency, the Agency conducted a coordinated review under SEQRA and, by resolution of the members of the Agency adopted on May 24, 2022, the Agency determined that (A) the Project is a Type I Action under SEQRA, and (B) the Project would have no significant adverse environmental impacts and issued a negative declaration in accordance with SEQRA; and

**WHEREAS**, in accordance with Section 874(4) of the Act, (A) the Administrative Director/CEO of the Agency caused a letter dated May 5, 2022 (the “Pilot Deviation Notice Letter”) to be mailed to the chief executive officer of each affected tax jurisdiction, informing said individuals that the Agency would, at its meeting on May 24, 2022 (the “IDA Meeting”), consider a proposed deviation from the Agency’s Uniform Tax Exemption Policy and Guidelines

(the “Tax Exemption Policy”) with respect to the payment in lieu of taxes agreement to be entered into by the Agency with respect to the Improvements and pursuant to which the Agency would grant an exemption from real property taxes with respect to the Improvements only; and (B) the members of the Agency conducted the IDA Meeting on the date hereof, reviewed any comments and correspondence received with respect to the proposed deviation from the Tax Exemption Policy and approved the proposed deviation from the Tax Exemption Policy; and

**WHEREAS**, the Agency now desires to make its determination to proceed with the Project and to grant the Financial Assistance, subject to the terms hereof; and

**WHEREAS**, the Applicant and/or one (1) or more of its affiliates will (A) execute and deliver a certain Company Lease Agreement (the “Company Lease”), pursuant to which the Applicant and/or such affiliate(s) will grant to the Agency a leasehold interest in the Project Facility; (B) execute and deliver a certain Agency Lease Agreement (Uniform Project Agreement) (the “Agency Lease”), pursuant to which the Agency will grant to the Applicant and/or such affiliate(s) a subleasehold interest in the Project Facility; (C) execute and deliver a certain Payment in Lieu of Taxes Agreement (the “PILOT Agreement”) pursuant to which the Agency would grant an exemption from real property taxes with respect to the Improvements only; and (D) execute and deliver certain other certificates, documents, instruments and agreements related to the Project (together with the Company Lease, the Agency Lease and the PILOT Agreement, collectively, the “Transaction Documents”);

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

Section 1. In accordance with Section 859-a of the Act, the Agency has prepared a written cost-benefit analysis with respect to the Project and the granting of the Financial Assistance (the “Analysis”). The Agency has reviewed the Application, the Report and the Analysis, and, based upon the representations made by the Applicant to the Agency and information obtained by the Agency, the Agency has reviewed and assessed all material information necessary to afford a reasonable basis for the Agency to make a determination to approve the Financial Assistance. In addition, the Agency hereby makes the following findings and determinations with respect to the Project:

(a) based on the proposed use of the Project Facility as set forth in the Application, the economic effects of the Project on the area in which it is situated, and the employment reasonably expected to be created and/or maintained by the Project, and an analysis of how the Project contributes to the realization of the public purposes of promoting employment opportunities in the County and the prevention of economic deterioration in the County, the Project will constitute a commercial facility with a significant impact on the area in which it is situated, and will advance the Agency’s purposes by promoting employment opportunities and preventing economic deterioration in the County. Therefore, the Project constitutes a “project” within the meaning of the Act;

(b) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Applicant to undertake the Project in the County;

(c) there is a likelihood that the Project would not be undertaken but for the granting of the Financial Assistance by the Agency to the Applicant;

(d) the completion of the Project Facility, the sublease thereof by the Agency to the Applicant and the operation thereof by the Applicant will not result in the removal of a facility or plant of the Applicant or any other occupant or user of the Project Facility from one area of the State of New York (the "State") to another area of the State or in the abandonment of one or more plants or facilities of the Applicant or any other occupant or user located within the State (but outside of the County). Therefore, the provisions of subdivision (1) of Section 862 of the Act are not and will not be violated as a result of the granting of the Financial Assistance by the Agency to the Applicant;

(e) the Project will serve the public purposes of the Act by preserving permanent, private sector jobs, and increasing the overall number of permanent, private sector jobs in the State;

(f) no funds of the Agency shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant, nor shall any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State, nor shall any funds of the Agency be used for advertising or promotional materials which depict elected or appointed government officials in either print or electronic media;

(g) the Project Facility does not and will not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project. For purposes of this finding, retail sales shall mean: (i) sales by a registered vendor under Article 28 of the New York Tax Law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section 1101 of the New York Tax Law; or (ii) sales of a service to such customers;

(h) the granting of the Financial Assistance by the Agency with respect to the Project will encourage and assist the Applicant in undertaking the Project in the County, will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of the County and the State and improve their standard of living, and thereby serve the public purposes of the Act; and

(i) the Project will not result in the removal or abandonment of a plant or facility of the Applicant or any other occupant or user of the Project Facility, currently located within the County.

Section 2. The Agency hereby ratifies, confirms and approves all actions heretofore taken by the Administrative Director/CEO, Chief Financial Officer and the staff of the Agency with respect to the Application, the Analysis and the Public Hearing, including, without limitation, (a) those actions required to ensure full compliance with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the Project, and (b) the appointment of the law firm of Phillips Lytle LLP as Counsel to the Agency with respect to all matters in connection with the Project.

Section 3. The Agency hereby determines that the Agency has fully complied with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the Project.

Section 4. Having considered fully all comments received at or in connection with the Public Hearing and the IDA Meeting, including correspondence received subsequent to the Public Hearing, the Agency hereby further determines to proceed with the Project and the granting of the Financial Assistance, subject to the terms hereof. The Agency hereby approves the granting of (a) an exemption from real property taxes having an estimated value of \$1,763,035, (b) an exemption from mortgage recording taxes in the maximum amount of \$23,296, and (c) an exemption from sales and use taxes in the maximum amount of \$266,134.

Section 5. The Agency recognizes that due to the complexities of the proposed transaction it may become necessary that certain of the terms approved hereby may require modifications from time to time which will not affect the intent and substance of the authorizations and approvals by the Agency herein. The Agency hereby authorizes the Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency, acting individually or jointly, to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution, but may include adjustments to the Financial Assistance granted hereunder. The approval of such modifications shall be evidenced by the certificate of determination of an Agency officer or the execution and delivery by some or all such Agency officers of relevant documents containing such modified terms.

Section 6. The Agency is hereby authorized to (a) acquire an interest in the Project Facility pursuant to the Company Lease and the other Transaction Documents, (b) grant a subleasehold interest in the Project Facility pursuant to the Agency Lease and the other Transaction Documents, (c) grant the Financial Assistance, (d) execute one (1) or more fee and leasehold mortgage, assignment of rents and leases, and security agreements in favor of such bank, governmental agency or financial institution as the Applicant may determine (such bank, governmental agency or financial institution, the "Bank"), encumbering the Project Facility, solely to subject the Agency's interest in the Project Facility to the lien thereof, all to secure one (1) or more loans made by the Bank to the Applicant with respect to the Project Facility, and (e) do all things necessary, convenient or appropriate for the accomplishment thereof. All acts heretofore taken by the Agency with respect to the foregoing are hereby approved, ratified and confirmed.

Section 7. The form and substance of the Transaction Documents, in the forms presented to the members of the Agency, together with such changes as the Chairman, the Vice Chairman, the Administrative Director/CEO or the Chief Financial Officer may hereafter deem

necessary or appropriate, are hereby approved. The Chairman, the Vice Chairman, the Administrative Director/CEO and the Chief Financial Officer are hereby authorized, on behalf of the Agency, acting together or individually, to execute and deliver the Transaction Documents to which the Agency is a party 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. The execution and delivery of each such agreement, approval and consent by such person(s) shall be conclusive evidence of such approval.

Section 8. The Chairman, the Vice Chairman, the Administrative Director/CEO and the Chief Financial Officer of the Agency are hereby further authorized, on behalf of the Agency, acting together or individually, to designate any additional Authorized Representatives (as defined in the Agency Lease) of the Agency.

Section 9. The officers, employees and agents of the Agency are hereby authorized and directed, acting individually or jointly, for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Transaction Documents, to execute and deliver all such additional certificates, instruments, agreements and documents, to pay all such fees, charges and expenses, and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, convenient or appropriate to effect the purposes of this Resolution and to cause compliance with all of the terms, covenants and provisions of the Transaction Documents to which the Agency is a party or which are binding on the Agency.

Section 10. The members of the Agency acknowledge the terms and conditions of Section 875(3) of the Act and the duties and obligations of the Agency thereunder with respect to granting of State Sales and Use Taxes (as such term is defined in Section 875 of the Act) with respect to the Project. The members hereby direct the officers of the Agency to comply with such terms and conditions with respect to the Project and hereby direct Counsel to the Agency to include such terms and conditions in all relevant Transaction Documents.

Section 11. The Chairman, the Vice Chairman, the Administrative Director/CEO and the Chief Financial Officer of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 12. 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:

Michael Metzger	AYE
Dennis J. Rak	ABSENT
Hans Auer	AYE
Gary Henry	AYE
Steven Thorpe	AYE
Brad Walters	AYE
Jay Churchill	ABSENT
Kevin Muldowney	AYE
Rhonda Johnson	AYE

The foregoing Resolution was thereupon declared duly adopted.

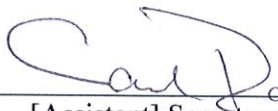
STATE OF NEW YORK            )  
  ) SS.:  
COUNTY OF CHAUTAUQUA    )

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 24, 2022 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) the meeting was duly held by videoconferencing in compliance with the requirements of Section 103-a of the Open Meetings Law, including, but not limited to, the notice provisions of such Section; (E) there was a quorum of the members of the Agency present throughout said meeting and the minimum number of members required for a quorum was physically present at one of the locations specified in the notice of the meeting, (F) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law; (G) members of the public were permitted to view such meeting via video and to participate in the proceedings via videoconference in real time to the same extent that that public participation was permitted to members of the public present in person.

WE 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, we have hereunto set our hand this 24<sup>th</sup> day of May, 2022.

  
\_\_\_\_\_  
[Assistant] Secretary

  
\_\_\_\_\_  
[Vice] Chairman

**Pomfret II PV, LLC -  
Deviation Approval Resolution**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on May 24, 2022, at 10:00 A.M., local time, at (i) the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”), and (ii) the SUNY Fredonia Tech Incubator, 214 Central Avenue, Dunkirk, County of Chautauqua, New York (the “Incubator”), and was conducted by videoconferencing in compliance with Section 103-a of the New York State Public Officers Law.

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

PRESENT:

Michael Metzger	Chairman	Incubator
Hans Auer	Treasurer	IDA Office
Gary Henry	Secretary	IDA Office
Steven Thorpe	Member	IDA Office
Brad Walters	Member	IDA Office
Kevin Muldowney	Member	Incubator
Rhonda Johnson	Member	IDA Office

NOT PRESENT:

Dennis J. Rak	Vice Chairman
Jay Churchill	Member

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Mark Geise	Administrative Director/CEO
Richard E. Dixon	Chief Financial Officer
Milan K. Tyler, Esq.	Counsel
Greg Peterson	Counsel
Carol Rasmussen	CCIDA Staff
Rosie Strandburg	CCIDA Staff
Kayla Strandburg	CCIDA Staff
Jason Toczydlowski	CCIDA Staff
Kristine Morabito	CCIDA Staff
Crystal Erhard	CCIDA Staff
Nate Aldrich	CCIDA Staff

The attached resolution no. 05-24-22-09 was offered by Steven Thorpe seconded by Gary Henry:



RESOLUTION AUTHORIZING A DEVIATION FROM THE UNIFORM  
TAX EXEMPTION POLICY OF THE COUNTY OF CHAUTAUQUA  
INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT  
TO A PROJECT FOR POMFRET II PV, LLC, LLC AND/OR  
ITS AFFILIATES

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the Laws of 1969 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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, 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, POMFRET II PV, LLC, a limited liability company duly organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign limited liability company (the “Applicant”), presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 28.91 acre portion of a parcel of land located at 10026 Farel Road, Fredonia, Town of Pomfret, Chautauqua County, New York (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on a 1-axis tracking steel structure, (ii) twenty-one (21) inverters, (iii) two (2) transformers, (iv) underground and overhead electrical lines, (v) fencing, and (vi) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 4.699 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording

taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the Application states that the Applicant is seeking an exemption from real property taxes with respect to the Improvements that, if granted, would constitute a deviation from the Agency’s established Uniform Tax Exemption Policy and Guidelines (the “Tax Exemption Policy”) that is published on the Agency’s website; and

WHEREAS, in accordance with Section 874(4) of the Act, (A) the Administrative Director/CEO of the Agency caused letters dated May 9, 2022 (the “Pilot Deviation Notice Letters”) to be mailed to the chief executive officer of each affected tax jurisdiction, informing said individuals that the Agency would, at its meeting on May 24, 2022 (the “IDA Meeting”), consider a proposed deviation from the Tax Exemption Policy with respect to the payment in lieu of taxes agreement to be entered into by the Agency with respect to the Improvements; and (B) the members of the Agency conducted the IDA Meeting on the date hereof and reviewed any comments and correspondence received with respect to the proposed deviation from the Tax Exemption Policy; and

WHEREAS, the Agency desires to provide for compliance with the provisions of Section 874(4) of the Act with respect to the proposed deviation from the Tax Exemption Policy;

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

Section 1. The Agency hereby determines that the Agency has fully complied with the requirements of Section 874(4) of the Act relating to the proposed deviation from the Tax Exemption Policy.

Section 2. Prior to making the determinations set forth in this Resolution, the members of the Agency have considered and weighed all of the factors set forth in the Tax Exemption Policy.

Section 3. Having reviewed all written comments and correspondence received at or prior to the IDA Meeting, the Agency hereby approves the proposed deviation from the Tax Exemption Policy as described in the Pilot Deviation Notice Letters (copies of which are attached hereto as Exhibit A) because the Property Tax Exemption (as defined in the Pilot Deviation Notice Letters) is necessary to induce the Applicant to undertake the Project in Chautauqua County. Deviating from the Policy in this instance will advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and Chautauqua County.

Section 4. The Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized and directed, acting individually or jointly, to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this

Resolution. If the Agency hereafter adopts appropriate final approving resolutions with respect to the proposed straight-lease transaction with the Applicant (the “Transaction”), the Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized and directed, acting individually or jointly, to cause the Agency to (A) enter into a Payment in Lieu of Taxes Agreement providing for, among other things, the making of payments in lieu of property taxes consistent with the Pilot Deviation Notice Letters, and (B) file an application for real property tax exemption with the appropriate assessor(s) with respect to the Improvements.

Section 5. This Resolution shall take effect immediately, but is subject to and conditioned upon the closing of the Transaction.

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

Michael Metzger	AYE
Dennis J. Rak	ABSENT
Hans Auer	AYE
Gary Henry	AYE
Steven Thorpe	AYE
Brad Walters	AYE
Jay Churchill	ABSENT
Kevin Muldowney	AYE
Rhonda Johnson	AYE

The foregoing Resolution was thereupon declared duly adopted.

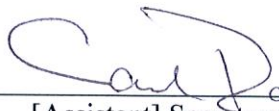
STATE OF NEW YORK            )  
  ) SS.:  
COUNTY OF CHAUTAUQUA    )

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 24, 2022 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) the meeting was duly held by videoconferencing in compliance with the requirements of Section 103-a of the Open Meetings Law, including, but not limited to, the notice provisions of such Section; (E) there was a quorum of the members of the Agency present throughout said meeting and the minimum number of members required for a quorum was physically present at one of the locations specified in the notice of the meeting, (F) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law; (G) members of the public were permitted to view such meeting via video and to participate in the proceedings via videoconference in real time to the same extent that that public participation was permitted to members of the public present in person.

WE 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, we have hereunto set our hand this 24<sup>th</sup> day of May, 2022.

  
\_\_\_\_\_  
[Assistant] Secretary

  
\_\_\_\_\_  
[Vice] Chairman

**EXHIBIT A**

Pilot Deviation Notice Letters

See Attached



County of Chautauqua Industrial Development Agency

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May 9, 2022

**EMAIL & US MAIL DISTRIBUTION**  
**CERTIFIED MAIL/RETURN RECEIPT**  
**DELIVERY AND READ RECEIPTS REQUESTED**

Paul Wendel, County Executive  
Chautauqua County  
County Executive's Office  
Gerace Office Building  
3 N. Erie St.  
Mayville, NY 14757

Brad Zilliox, Superintendent  
Superintendent's Office  
Fredonia Central School District  
425 East Main Road  
Fredonia, NY 14063

Dan Pacos, Town Supervisor  
Town of Pomfret  
9 Day Street  
Fredonia, NY 14063

**NOTICE OF PROPOSED DEVIATION FROM UNIFORM  
TAX EXEMPTION POLICY AND GUIDELINES**

Gentlemen:

Notice is hereby given that at a meeting of the County of Chautauqua Industrial Development Agency (the "Agency") to be held on May 24, 2022 at 10:00 a.m., local time, at the offices of the Agency, 201 West Third Street, Jamestown, County of Chautauqua, New York, and at the SUNY Fredonia Technology Incubator, 214 Central Avenue, Dunkirk, County of Chautauqua, New York, the Agency will consider whether to approve the application of POMFRET II PV, LLC, a limited liability company duly organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign limited liability company (the "Applicant"), for certain "financial assistance" which, if granted, would deviate from the Agency's Uniform Tax Exemption Policy and Guidelines (the "Policy") with respect to the payment of real property taxes.

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201 W. Third Street, Suite 115, Jamestown, NY 14701-6902  
PH 716-661-8900 / FAX 716-664-4515  
[ccida@ccida.com](mailto:ccida@ccida.com)





County of Chautauqua Industrial Development Agency

The Applicant submitted an application for financial assistance (the "Application") to the Agency requesting that the Agency consider undertaking a project (the "Project") consisting of the following: (A)(1) the acquisition of an interest in an approximately 28.91 acre portion of a parcel of land located at 10026 Farel Road, Fredonia, Town of Pomfret, Chautauqua County, New York (collectively, the "Land"), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on a 1-axis tracking steel structure, (ii) twenty-one (21) inverters, (iii) two (2) transformers, (iv) underground and overhead electrical lines, (v) fencing, and (vi) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the "Improvements"), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the "Equipment" and together with the Land and the Improvements, collectively, the "Project Facility"), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 4.699 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency.

The Project Facility would be initially owned, operated and/or managed by the Applicant (or such other designated entity(ies) as may be designated by the Applicant and agreed upon by the Agency).

The Application states that the Applicant is seeking an abatement of real property taxes with respect the Project Facility. Based upon negotiations between representatives of the Applicant and the Agency, the parties contemplate that the Agency may agree to grant a real property tax exemption with respect to the Improvements only (the "Property Tax Exemption"). The Property Tax Exemption would result in a payment in lieu of taxes ("PILOT") agreement between the Agency and the Applicant and/or its affiliates having a term of twenty-five (25) fiscal tax years (the "PILOT Term"), with annual PILOT payments with respect to the Improvements as follows:

<b>PILOT Year</b>	<b>Annual PILOT Payment</b>
1	\$3,400 per Megawatt A/C
2	Year 1 PILOT Payment increased by 2%
3	Year 2 PILOT Payment increased by 2%
4	Year 3 PILOT Payment increased by 2%
5	Year 4 PILOT Payment increased by 2%
6	Year 5 PILOT Payment increased by 2%
7	Year 6 PILOT Payment increased by 2%
8	Year 7 PILOT Payment increased by 2%

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[ccida@ccida.com](mailto:ccida@ccida.com)





9	Year 8 PILOT Payment increased by 2%
10	Year 9 PILOT Payment increased by 2%
11	Year 10 PILOT Payment increased by 2%
12	Year 11 PILOT Payment increased by 2%
13	Year 12 PILOT Payment increased by 2%
14	Year 13 PILOT Payment increased by 2%
15	Year 14 PILOT Payment increased by 2%
16	Year 15 PILOT Payment increased by 2%
17	Year 16 PILOT Payment increased by 2%
18	Year 17 PILOT Payment increased by 2%
19	Year 18 PILOT Payment increased by 2%
20	Year 19 PILOT Payment increased by 2%
21	Year 20 PILOT Payment increased by 2%
22	Year 21 PILOT Payment increased by 2%
23	Year 22 PILOT Payment increased by 2%
24	Year 23 PILOT Payment increased by 2%
25	Year 24 PILOT Payment increased by 2%

No exemption from real property taxes and assessments would be granted by the Agency with respect to the Land or the existing improvements thereon and the Land and such improvements would remain on the tax rolls as taxable property subject to taxation at their then current, full assessed value, as the same may be reassessed from time to time, and subject to tax rate increases imposed by the affected tax jurisdictions.

Thereafter, and through the end of the term of the lease or installment sale agreement with respect to the Project Facility, the payments would be equal to the real property taxes and assessments that would be payable as if the Improvements were returned to the tax rolls as taxable property and subject to taxation at its then current, full assessed value, as the same may be reassessed from time to time, and subject to tax rate increases imposed by the affected tax jurisdictions.

The Property Tax Exemption, if approved by the Agency, would be a deviation from the Policy.

The reason for the proposed deviation is that the Property Tax Exemption, if approved by the Agency, is necessary to induce the Applicant to undertake the Project in Chautauqua County. Deviating from the Policy in this instance will advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and Chautauqua County.





County of Chautauqua Industrial Development Agency

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The meeting will be streamed on the Agency's website in real-time and a recording of the meeting will be posted on the Agency's website, all in accordance with Section 857 of the New York General Municipal Law, as amended.

Copies of the Application, including the request for a deviation from the Policy, are available for review by the public online at [www.ccida.com](http://www.ccida.com). For additional assistance, contact the Agency at (716) 661-8900.

COUNTY OF CHAUTAUQUA INDUSTRIAL  
DEVELOPMENT AGENCY

By: Richard E. Dixon  
Richard E. Dixon  
Chief Financial Officer

---

201 W. Third Street, Suite 115, Jamestown, NY 14701-6902  
PH 716-661-8900 / FAX 716-664-4515  
[ccida@ccida.com](mailto:ccida@ccida.com)



A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on May 24, 2022, at 10:00 A.M., local time, at (i) the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”), and (ii) the SUNY Fredonia Tech Incubator, 214 Central Avenue, Dunkirk, County of Chautauqua, New York (the “Incubator”), and was conducted by videoconferencing in compliance with Section 103-a of the New York State Public Officers Law.

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

PRESENT:

Michael Metzger	Chairman	Incubator
Hans Auer	Treasurer	IDA Office
Gary Henry	Secretary	IDA Office
Steven Thorpe	Member	IDA Office
Brad Walters	Member	IDA Office
Kevin Muldowney	Member	Incubator
Rhonda Johnson	Member	IDA Office

NOT PRESENT:

Dennis J. Rak	Vice Chairman
Jay Churchill	Member

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Mark Geise	Administrative Director/CEO
Richard E. Dixon	Chief Financial Officer
Milan K. Tyler, Esq.	Counsel
Greg Peterson	Counsel
Carol Rasmussen	CCIDA Staff
Rosie Strandburg	CCIDA Staff
Kayla Strandburg	CCIDA Staff
Jason Toczydlowski	CCIDA Staff
Kristine Morabito	CCIDA Staff
Crystal Erhard	CCIDA Staff
Nate Aldrich	CCIDA Staff

The attached resolution no. 05-24-22-10 was offered by Kevin Muldowney, seconded by Hans Auer:

**Resolution No. 5-24-22-10**

RESOLUTION OF THE COUNTY OF CHAUTAUQUA INDUSTRIAL  
DEVELOPMENT AGENCY PURSUANT TO THE STATE  
ENVIRONMENTAL QUALITY REVIEW ACT CONCERNING THE  
DETERMINATION OF SIGNIFICANCE FOR A CERTAIN PROJECT FOR  
POMFRET II PV, LLC AND/OR ITS AFFILIATES

**Name of Project:** Pomfret II Solar

**Location:** 10026 Farel Road, Fredonia, Chautauqua County, New York

**SEQR Status:** Type I

**Determination  
of Significance:** Negative Declaration

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of the New York State Industrial Development Agency Act, 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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, renovating, improving, maintaining, equipping and furnishing of commercial 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, among other things, (i) acquire by purchase, lease, gift, bequest, devise or otherwise real or personal property or interests therein; and (ii) 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, Pomfret II PV, LLC, a limited liability company duly organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign limited liability company (the “Applicant”), submitted an application for financial assistance (the “Application”) to the Agency requesting that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 28.91 acre portion of a 43.25 acre parcel of land located at 10026 Farel Road, Town of Pomfret, Chautauqua County, New York (collectively, the “Land”), (2) the

acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on a 1-axis tracking steel structure, (ii) twenty-one (21) inverters, (iii) two (2) transformers, (iv) underground and overhead electrical lines, (v) fencing, and (vi) a system of access roads, parking, landscaping and related improvements to the, and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof, all of the foregoing for use by the Applicant and/or its affiliates as an approximately 4.699 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing; and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, pursuant to Article 8 of the New York 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 (“NYSDEC”), being 6 NYCRR Part 617, et. seq., 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 whether to undertake the Project; and

WHEREAS, on April 22, 2022, the Agency caused to be transmitted to all other potentially Interested and Involved Agencies: (1) a cover letter describing the Project; (2) a copy of the Project Application; (2) a notice of intent to act as Lead Agency; (3) a list of potentially Involved Agencies; (4) a Full Environmental Assessment Form Part I; and (5) an acknowledgement form for the Agency to act as Lead Agency; and

WHEREAS, the other potentially Involved and Interested Agencies included: Town of Pomfret Town Board, Town of Pomfret Planning Board, Town of Pomfret Zoning Board, Chautauqua County Planning Board, Chautauqua County Public Works, New York State Department of Environmental Conservation, New York State Department of Health, New York State Energy Research & Development Authority, New York State Historic Preservation Office, New York Natural Heritage Program, the New York State Department of Agriculture and Markets, the United States Army Corps of Engineers, and the United States Fish and Wildlife Service; and

WHEREAS, no other potentially Involved Agency disputed the Agency’s declaration of Lead Agency status within 30 days; and

WHEREAS, the Agency is Lead Agency for the Project and undertook a coordinated review pursuant to 6 N.Y.C.R.R. 617.6(b)(3) of the Regulations; and

WHEREAS, pursuant to SEQRA, to aid the Agency in determining whether the Project may have a significant adverse impact upon the environment, the Agency has received and reviewed: (1) a Part 1 of a Full Environmental Assessment Form dated March 29, 2022 and revised on May 17, 2022 (collectively the “EAF”); (2) NYSDEC’s Environmental Resource Mapper (“NYSDEC Mapper”); (3) the New York State Cultural Resource Information System

(“CRIS”); (4) an Application for Financial Assistance dated (“PILOT Application”); (5) a letter from the New York State Office of Parks, Recreation, and Historic Preservation dated December 8, 2021 (“SHPO No Effect Letter”); (6) a letter from the Applicant on May 17, 2022 clarifying certain parts of the EAF (“Applicant Letter”); (7) a Waiver of the Notice of Intent process dated May 16, 2022 (“NYSDAM NOI Waiver”); (8) other relevant environmental information (collectively, 1-8 shall be referred to as the “Environmental Information”); and

WHEREAS, prior to making a recommendation about the potential environmental significance of the Project, the Agency has reviewed the Environmental Information, consulted various information sources, and considered the list of activities which are Type I Actions outlined in Section 617.4 of the SEQRA regulations, the list of activities that are Type II Actions outlined in Section 617.5 of the SEQRA regulations and the criteria for determining significance outlined in Section 617.7 of the SEQRA regulations; and

WHEREAS, a thorough analysis of the Environmental Information and potential environmental impacts associated with the Project reveals that the Project will not have any potentially significant adverse environmental impacts; and

WHEREAS, it is appropriate that the Agency issue a negative declaration pursuant to SEQRA for the Project.

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

**Section 1.** Based upon a thorough review and examination of the Project and Environmental Information, and upon the Agency’s knowledge of the area surrounding the Land and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings with respect to the Project:

- (A) The Project is Type I Action pursuant to SEQRA, as the Project involves the construction and operation of solar-powered electrical generation facilities totaling over 10 acres of disturbance;
- (B) The Agency has undertaken a coordinated review of the Project in accordance with the requirements of SEQRA; and
- (C) No potentially significant adverse impacts on the environment are noted in the Environmental Information and none are known to the Agency.

**Section 2.** Based upon the Agency’s review of the Environmental Information and investigations of the potential environmental impacts associated with the Project, considering both the magnitude and importance of each potential environmental impact indicated, and upon the Agency’s knowledge of the Land and surrounding area and such further investigations of the Project and its environmental effects as the Agency has deemed appropriate, the Agency has determined that the Project will not have a significant adverse impact upon the environment. The reasons supporting this determination are as follows:

1. Impact on Land. The Project consists of a 4.699 megawatt A/C solar-powered electrical generation facility and 21 associated inverters connected to two separate transformers and an interconnect to the nearest distribution circuit through a 13.2 kV feeder. Approximately 28.91 acres of the 43.25 acre parcel will be physically disturbed by the Project.

The Site is zoned AR2 (Agricultural/Residential), and as noted in the EAF, a Special Use Permit was issued for the Project. The Project is consistent with the Land's existing zoning classification, and will not impact or deter existing or future adjacent land use. In addition, there will be minimal physical disturbance of land to install the solar arrays as the arrays do not have large physical footprints, and the Land is relatively level, without steep slopes.

The average depth to the water table at the Site is 3.6 feet, and there are no bedrock outcroppings on the Site. The Project does not involve any excavation, mining or dredging and will be completed in a single phase. The Project will create only 0.015 acres of new impervious surfaces compared to the total parcel size of 43.25 acres, and no new point sources are proposed. While there will be temporary runoff during construction, it will be discharged onsite and controlled by stormwater and sediment/erosion control best management practices. Further, as noted in the Applicant Letter, the PV panels are tracking panels and will rotate thorough the day, minimizing any drip effect due to stormwater.

As noted in the EAF and NYSDEC Mapper, the Project is not within a Coastal Area, a waterfront area of a Designated Inland Waterway, an area with an approved Local Waterfront Revitalization Program or a Coastal Erosion Hazard Area.

Based on the foregoing, the Project is not anticipated to create any potentially significant adverse impacts to land resources or land use.

2. Impact on Geological Features. The Project does not contain and is not adjacent to any unique geologic features or National Natural Landmarks. Accordingly, the Project will not create any potentially significant adverse impacts to geological features.
3. Impact on Surface Water. The EAF notes that the Land contains 1.26 acres of wetlands including two unnamed minor tributaries to Lake Erie. While the Preliminary Jurisdictional Determination notes that the streams and surrounding wetland areas are likely federal waters which would require Clean Water Act Section 404 permits, the Project avoids stream and wetland impacts by keeping all work away from the wetland areas and utilizing the existing access road with culverted stream crossings.

Further, as mentioned above the EAF demonstrates that the Project will minimize new impervious surfaces, creating only 0.015 acres of such surfaces. Lastly, the EAF demonstrates that no additional water demand will be created by the Project. Accordingly, the Project will not create any significant adverse impacts on surface water.

4. Impact on Groundwater. The EAF also demonstrates that the Project will not create a new demand for water, generate or discharge liquid wastes, or involve bulk storage of chemicals or production of hazardous waste or any other activities that would pose a threat to groundwater. The EAF notes that 30 tons of solid waste will be generated per year during construction consisting largely of packaging waste, roughly 70% of which will be recyclable material. Solid waste generated onsite will be recycled to the extent possible and other materials will be properly disposed of in a landfill. Accordingly, the Project is not anticipated to create any significant adverse impacts to groundwater.
5. Impact on Flooding. The EAF states that the Project will not result in the development of lands which are subject to flooding and does not include the impoundment of water. The Project is not within a designated floodway, the 100-year or 500-year floodplain.

The Project will be constructed in accordance with any applicable local laws for flood damage prevention. Additionally, the mitigation requirements of SPDES General Permit GP-0-20-001 will ensure that any stormwater runoff is adequately managed. Accordingly, the Project is not anticipated to create any significant adverse impacts to flooding.

6. Impact on Air. The Project will not include significant sources of air emissions. The Project does not entail the types of activities or operations that require the Applicant to obtain air registration permits or that are associated with a significant potential for air emissions. As demonstrated in the EAF, any impacts to air quality from construction activities will be minor and temporary in nature.

Additionally, the Project will produce clean energy which will benefit local residents and the environment by replacing energy sources which involve the combustion of fossil fuels and air emissions with clean energy. Accordingly, the Project is not anticipated to create any significant adverse impacts to air resources.

7. Impact on Plants and Animals. As noted in the EAF, the Project will result in a loss of 28.9 acres of agricultural lands. The Project will, however, increase the Site's meadows, grasslands, brushlands or abandoned agricultural use land by 28.165 acres.

Although some impacts to flora and fauna will occur from the construction of the Project as a result of the conversion of forested and agricultural areas to a solar farm, the EAF notes that no threatened, endangered, rare, or special concern species are found on or near the Site, and no such species will be impacted by the Project. Further, the Site does not contain a designated significant natural community.

While the NYSDEC Mapper does not list any endangered species of plant or animal within the limits of the Site, the Applicant has noted the potential presence of northern long-eared bat, a federally and state threatened species. The Town of Pomfret has no documented summer or winter occurrences of the northern long-eared bat. In addition, because no clearing of forested area will occur as part of the Project, there will be no

impact to the northern long-eared bat resulting from the Project.

Predominant wildlife species that occupy or use the site include white-tailed deer and various songbirds and small mammals including mice and squirrels. The Project will not substantially interfere with the nesting/breeding, foraging or over-wintering habitat for these species because the surrounding areas provide a similar and suitable habitat for these species, and the Project would not fragment the habitat or reduce the value of the surrounding land to the species. Moreover, the Project will not involve the use of pesticides during construction or operation. Accordingly, the Project is not anticipated to create any significant adverse impacts on plants and animals.

8. Impact on Agricultural Land Resources. The EAF notes that the Project is located in a designated agricultural district, CHAU002, and will result in the conversion of farmland to a solar farm, and as a result an Agricultural Data Statement was completed. The EAF also notes that the Site consists of highly productive soils. All of the site is farmland of statewide importance and prime farmland, with 16.1 acres in highly productive soils according to the NRCS Web Soil Survey. However, as demonstrated by the NYSDAM NOI Waiver, the owner of the Site has completed a waiver from the requirement for the New York State Department of Agriculture and Markets (“NYSDAM”) to undertake the Notice of Intent process in connection with the Project. While NYSDAM considers the placement of solar panels on a property a permanent conversion of agricultural land, as noted in the Applicant Letter, the Project will terminate at the end of the lease for the Land and no permanent impact to the agricultural soils result from the Project.

Further the Project is consistent with the Town’s Comprehensive Agricultural Protection Plan which seeks to encourage the development of facilities that generate clean, renewable energy to promote economic development and green infrastructure throughout the Town. As the Town Comprehensive Agricultural Protection Plan recognizes, “[a]lternative energy facilities [such as solar] can provide additional revenue sources to farmers while not impacting much land, thereby increasing the agricultural viability of the Town.” Moreover, the Project includes only a small fraction of the overall agricultural land located in the region and will not result in increased development pressure on farmland or significantly decreased agricultural land in the County. Accordingly, the Project will not create any significant adverse impacts to agricultural land. In addition, the Agency has also determined, pursuant to Agriculture and Markets Law Section 305(4), that to the maximum extent practicable, adverse agricultural impacts have been minimized or avoided for the Project.

9. Impact on Aesthetic Resources. The EAF notes that the Project is not within “fives [sic] miles” of any officially designated and publicly accessible federal, state or local scenic or aesthetic resources. Any resulting visual impacts will be minor in nature, since the Project does not have a large visual profile and is otherwise aesthetically unobtrusive. Further, existing mature trees will be retained to provide natural screening for the Project. Moreover, the Project will comply with the screening and setback requirements of the Town of Pomfret Zoning Code. Accordingly, the Project is not anticipated to create any significant adverse impacts to aesthetic resources.



10. Impact on Historic and Archaeological Resources. The Project was submitted to the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation through the Cultural Resource Information System (CRIS), and the SHPO No Effect Letter in response determined that no historic properties, including archaeological and/or historic resources would be affected by the Project. Further, the Site is not located in an area flagged as sensitive for archaeological resources, and the SHPO No Effect Letter confirms this finding. Accordingly, the Project will not create any significant impacts to historic or archeological resources.
11. Impact on Open Space and Recreation. The Site is not in an area listed in an adopted municipal open space plan, is not used by members of the community for public recreation, and neither the Site nor any adjoining area is used for hunting, trapping, fishing or shell fishing. Accordingly, the Project will not create any significant impacts to open space or recreational resources.
12. Impact on Critical Environmental Areas. The Project is not located in or substantially contiguous to any Critical Environmental Areas. Accordingly, the Project will not create any significant impacts to Critical Environmental Areas.
13. Impact on Transportation. The Project does not involve the types of activities or operations that would be associated with an increased flow of traffic. Accordingly, the Project is not anticipated to create any significant adverse impacts on transportation.
14. Impact on Energy. The Project will not generate any new or additional demand for energy. Rather, the Project will be a source of clean, renewable energy which will benefit the community and the environment. Accordingly, the Project will not create any significant adverse impacts on energy.
15. Impact on Noise, Odor and Light. The Project is not expected to appreciably create odors or excessive lighting. The Project is expected to increase noise levels during construction on Monday through Saturday during the hours of 7:00 AM to 7:00 PM and during operations from dawn to dusk. However, any impacts to noise or odor from construction activities will be minor and temporary in nature. Accordingly, the Project will not create any significant adverse impacts on noise, odor or light.
16. Impact on Public Health. The Project does not involve the types of activities or operations that are associated with a significant potential for affecting public health, including the use, creation, disposal or storage of a hazardous or toxic substance. Further, any solid waste generated at the Site will be properly disposed of pursuant to Federal, State and local laws and regulations. Further, the photovoltaic panels will be properly disposed of. Accordingly, the Project is not anticipated to create any significant adverse impact to public health.
17. Impact on Character of the Community and Community Plans. The Project will provide clean, renewable energy for the area. This use is consistent with the underlying goals

behind the Town of Pomfret’s Zoning Code, which establishes section 300-35 “[i]n order to promote and protect the use of solar systems,” and Town of Pomfret Local Law #2 of 2016, which seeks to balance the rights of neighbors and property owners while preserving the rights of property owners to install solar collection systems without excess regulation.

The Town of Pomfret and the Village of Fredonia are working on a Joint Comprehensive Plan which will address solar development. Nevertheless, the use proposed by the Project is consistent with the Town’s current land use goals set out the Town of Pomfret 2000 Comprehensive Plan. While the Comprehensive Plan does not specifically address solar arrays, the land use goals repeatedly emphasize the importance of promoting land uses which protect environmental resources.

While the Project results in the conversion of agricultural land to a solar farm, the Project is not anticipated to result in secondary development effects or significant population growth. Additionally, the Town Zoning Code and the Town Local Law #2 of 2016 impose screening and setback requirements to protect adjacent properties from impacts. Accordingly, the Project will not create any significant adverse impacts to the character of the community or community plans.

**Section 3.** Since the Project will not have a significant adverse impact on the environment, a negative declaration (“Negative Declaration”) pursuant to SEQRA is hereby issued. This Negative Declaration has been prepared pursuant to and in accordance with the requirements of SEQRA.

**Section 4.** The Chairman, the Vice Chairman, the Executive Director and the Administrative Director of the Agency are hereby further authorized on behalf of the Agency, or acting together or individually, to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

**Section 5.** This Resolution, which is adopted by a majority vote of the Agency, shall serve as the Negative Declaration (as defined in 6 N.Y.C.R.R. 617.2(y)) for the Project, and is issued by the Agency pursuant to and in accordance with SEQRA in a coordinated environmental impact review, shall take effect immediately.

**Section 6.** For further information on this Negative Declaration contact:

County of Chautauqua Industrial Development Agency  
201 West 3rd Street, Suite 115  
Jamestown, New York 14701-6902  
ATTN: Mark Geise, Administrative Director/CEO  
Phone: 716-661-8900  
Fax: 716-664-4515

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

Michael Metzger	AYE
Dennis J. Rak	ABSENT
Hans Auer	AYE
Gary Henry	AYE
Steven Thorpe	AYE
Brad Walters	AYE
Jay Churchill	ABSENT
Kevin Muldowney	AYE
Rhonda Johnson	AYE

The foregoing Resolution was thereupon declared duly adopted.

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

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 24, 2022 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) the meeting was duly held by videoconferencing in compliance with the requirements of Section 103-a of the Open Meetings Law, including, but not limited to, the notice provisions of such Section; (E) there was a quorum of the members of the Agency present throughout said meeting and the minimum number of members required for a quorum was physically present at one of the locations specified in the notice of the meeting, (F) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law; (G) members of the public were permitted to view such meeting via video and to participate in the proceedings via videoconference in real time to the same extent that that public participation was permitted to members of the public present in person.

WE 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, we have hereunto set our hand this 24<sup>th</sup> day of May, 2022.

  
\_\_\_\_\_  
[Assistant] Secretary

  
\_\_\_\_\_  
[Vice] Chairman

**Pomfret II PV, LLC -  
Approving Resolution**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on May 24, 2022, at 10:00 A.M., local time, at (i) the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”), and (ii) the SUNY Fredonia Tech Incubator, 214 Central Avenue, Dunkirk, County of Chautauqua, New York (the “Incubator”), and was conducted by videoconferencing in compliance with Section 103-a of the New York State Public Officers Law.

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

**PRESENT:**

Michael Metzger	Chairman	Incubator
Hans Auer	Treasurer	IDA Office
Gary Henry	Secretary	IDA Office
Steven Thorpe	Member	IDA Office
Brad Walters	Member	IDA Office
Kevin Muldowney	Member	Incubator
Rhonda Johnson	Member	IDA Office

**NOT PRESENT:**

Dennis J. Rak	Vice Chairman
Jay Churchill	Member

**THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:**

Mark Geise	Administrative Director/CEO
Richard E. Dixon	Chief Financial Officer
Milan K. Tyler, Esq.	Counsel
Greg Peterson	Counsel
Carol Rasmussen	CCIDA Staff
Rosie Strandburg	CCIDA Staff
Kayla Strandburg	CCIDA Staff
Jason Toczydlowski	CCIDA Staff
Kristine Morabito	CCIDA Staff
Crystal Erhard	CCIDA Staff
Nate Aldrich	CCIDA Staff

The attached resolution no. 05-24-22-11 was offered by Rhonda Johnson, seconded by Steven Thorpe:

Resolution No. 05-24-22-11

RESOLUTION TAKING OFFICIAL ACTION TOWARD AND APPROVING THE  
STRAIGHT LEASE DOCUMENTS FOR A CERTAIN PROJECT FOR  
POMFRET II PV, LLC AND/OR ITS AFFILIATES

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the Laws of 1969 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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, 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, POMFRET II PV, LLC, a limited liability company duly organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign limited liability company (the “Applicant”), presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 28.91 acre portion of a parcel of land located at 10026 Farel Road, Fredonia, Town of Pomfret, Chautauqua County, New York (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on a 1-axis tracking steel structure, (ii) twenty-one (21) inverters, (iii) two (2) transformers, (iv) underground and overhead electrical lines, (v) fencing, and (vi) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 4.699 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, in accordance with Section 859-a of the Act, any approval of the Project is contingent upon, inter alia, a determination by the members of the Agency to proceed with the Project following a determination by the Agency that (A) the public hearing and notice requirements and other procedural requirements contained in the Act relating to the Project have been satisfied; and (B) the undertaking of the Project by the Agency and the granting of the Financial Assistance are and will be in compliance with all other applicable requirements of the Act, SEQRA (as hereinafter defined), and all other statutes, codes, laws, rules and regulations of any governmental authority having jurisdiction over the Project and/or the Project Facility (collectively, the “Applicable Laws”); and

WHEREAS, the Administrative Director/CEO of the Agency (A) caused notice of a public hearing of the Agency pursuant to Section 859-a of the Act (the “Public Hearing”) to hear all persons interested in the Project and the Financial Assistance contemplated by the Agency with respect to the Project, to be mailed on May 4, 2022 to the chief executive officer of the County of Chautauqua (the “County”) and of each other affected tax jurisdiction within which the Project Facility is or is to be located, and posted a copy of the Application on the Agency’s website; (B) caused notice of the Public Hearing to be published on May 5, 2022 in *The Observer*, a newspaper of general circulation available to residents of the County; (C) caused the Public Hearing to be conducted on May 17, 2022, at 10:00 a.m., local time, at Town of Pomfret Town Hall, 9 Day Street, Town of Pomfret, County of Chautauqua, New York; (D) caused the Public Hearing to be streamed on the Agency’s website in real-time and a recording of the Public Hearing to be posted on the Agency’s website, all in accordance with Section 857 of the Act, as amended; and (E) caused a written report of the Public Hearing to be prepared which fairly summarizes the views presented at the Public Hearing and collected written comments from the public (collectively, the “Report”) and distributed the Report to the members of the Agency; 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 (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the appropriate personnel of the Agency reviewed the environmental assessment form and other materials submitted by the Applicant and made any necessary comments to the members of the Agency, the Agency conducted a coordinated review pursuant to SEQRA, and by resolution of the members of the Agency adopted on May 24, 2022, the Agency determined that (A) the Project is a Type I Action pursuant to SEQRA, and (B) the Project would have no significant adverse environmental impacts and issued a negative declaration in accordance with SEQRA; and

WHEREAS, in accordance with Section 874(4) of the Act, (A) the Administrative Director/CEO of the Agency caused a letter dated May 9, 2022 (the “Pilot Deviation Notice Letter”) to be mailed to the chief executive officer of each affected tax jurisdiction, informing said individuals that the Agency would, at its meeting on May 24, 2022 (the “IDA Meeting”), consider a proposed deviation from the Agency’s Uniform Tax Exemption Policy and Guidelines (the “Tax Exemption Policy”) with respect to the payment in lieu of taxes agreement to be entered into by the Agency with respect to the Improvements and pursuant to which the Agency would grant an exemption from real property taxes with respect to the Improvements only; and

(B) the members of the Agency conducted the IDA Meeting on the date hereof, reviewed any comments and correspondence received with respect to the proposed deviation from the Tax Exemption Policy and approved the proposed deviation from the Tax Exemption Policy; and

WHEREAS, the Agency now desires to make its determination to proceed with the Project and to grant the Financial Assistance, subject to the terms hereof; and

WHEREAS, the Applicant and/or one (1) or more of its affiliates will (A) execute and deliver a certain Company Lease Agreement (the “Company Lease”), pursuant to which the Applicant and/or such affiliate(s) will grant to the Agency a leasehold interest in the Project Facility; (B) execute and deliver a certain Agency Lease Agreement (Uniform Project Agreement) (the “Agency Lease”), pursuant to which the Agency will grant to the Applicant and/or such affiliate(s) a subleasehold interest in the Project Facility; (C) execute and deliver a certain Payment in Lieu of Taxes Agreement (the “PILOT Agreement”) pursuant to which the Agency would grant an exemption from real property taxes with respect to the Improvements only; and (D) execute and deliver certain other certificates, documents, instruments and agreements related to the Project (together with the Company Lease, the Agency Lease and the PILOT Agreement, collectively, the “Transaction Documents”);

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

Section 1. In accordance with Section 859-a of the Act, the Agency has prepared a written cost-benefit analysis with respect to the Project and the granting of the Financial Assistance (the “Analysis”). The Agency has reviewed the Application, the Report and the Analysis, and, based upon the representations made by the Applicant to the Agency and information obtained by the Agency, the Agency has reviewed and assessed all material information necessary to afford a reasonable basis for the Agency to make a determination to approve the Financial Assistance. In addition, the Agency hereby makes the following findings and determinations with respect to the Project:

(a) based on the proposed use of the Project Facility as set forth in the Application, the economic effects of the Project on the area in which it is situated, and the employment reasonably expected to be created and/or maintained by the Project, and an analysis of how the Project contributes to the realization of the public purposes of promoting employment opportunities in the County and the prevention of economic deterioration in the County, the Project will constitute a commercial facility with a significant impact on the area in which it is situated, and will advance the Agency’s purposes by promoting employment opportunities and preventing economic deterioration in the County. Therefore, the Project constitutes a “project” within the meaning of the Act;

(b) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Applicant to undertake the Project in the County;



(c) there is a likelihood that the Project would not be undertaken but for the granting of the Financial Assistance by the Agency to the Applicant;

(d) the completion of the Project Facility, the sublease thereof by the Agency to the Applicant and the operation thereof by the Applicant will not result in the removal of a facility or plant of the Applicant or any other occupant or user of the Project Facility from one area of the State of New York (the "State") to another area of the State or in the abandonment of one or more plants or facilities of the Applicant or any other occupant or user located within the State (but outside of the County). Therefore, the provisions of subdivision (1) of Section 862 of the Act are not and will not be violated as a result of the granting of the Financial Assistance by the Agency to the Applicant;

(e) the Project will serve the public purposes of the Act by preserving permanent, private sector jobs, and increasing the overall number of permanent, private sector jobs in the State;

(f) no funds of the Agency shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant, nor shall any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State, nor shall any funds of the Agency be used for advertising or promotional materials which depict elected or appointed government officials in either print or electronic media;

(g) the Project Facility does not and will not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project. For purposes of this finding, retail sales shall mean: (i) sales by a registered vendor under Article 28 of the New York Tax Law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section 1101 of the New York Tax Law; or (ii) sales of a service to such customers;

(h) the granting of the Financial Assistance by the Agency with respect to the Project will encourage and assist the Applicant in undertaking the Project in the County, will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of the County and the State and improve their standard of living, and thereby serve the public purposes of the Act; and

(i) the Project will not result in the removal or abandonment of a plant or facility of the Applicant or any other occupant or user of the Project Facility, currently located within the County.

Section 2. The Agency hereby ratifies, confirms and approves all actions heretofore taken by the Administrative Director/CEO, Chief Financial Officer and the staff of the Agency with respect to the Application, the Analysis and the Public Hearing, including, without

limitation, (a) those actions required to ensure full compliance with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the Project, and (b) the appointment of the law firm of Phillips Lytle LLP as Counsel to the Agency with respect to all matters in connection with the Project.

Section 3. The Agency hereby determines that the Agency has fully complied with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the Project.

Section 4. Having considered fully all comments received at or in connection with the Public Hearing and the IDA Meeting, including correspondence received subsequent to the Public Hearing, the Agency hereby further determines to proceed with the Project and the granting of the Financial Assistance, subject to the terms hereof. The Agency hereby approves the granting of (a) an exemption from real property taxes having an estimated value of \$3,509,440, (b) an exemption from mortgage recording taxes in the maximum amount of \$63,437, and (c) an exemption from sales and use taxes in the maximum amount of \$255,189.

Section 5. The Agency recognizes that due to the complexities of the proposed transaction it may become necessary that certain of the terms approved hereby may require modifications from time to time which will not affect the intent and substance of the authorizations and approvals by the Agency herein. The Agency hereby authorizes the Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency, acting individually or jointly, to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution, but may include adjustments to the Financial Assistance granted hereunder. The approval of such modifications shall be evidenced by the certificate of determination of an Agency officer or the execution and delivery by some or all such Agency officers of relevant documents containing such modified terms.

Section 6. The Agency is hereby authorized to (a) acquire an interest in the Project Facility pursuant to the Company Lease and the other Transaction Documents, (b) grant a subleasehold interest in the Project Facility pursuant to the Agency Lease and the other Transaction Documents, (c) grant the Financial Assistance, (d) execute one (1) or more fee and leasehold mortgage, assignment of rents and leases, and security agreements in favor of such bank, governmental agency or financial institution as the Applicant may determine (such bank, governmental agency or financial institution, the "Bank"), encumbering the Project Facility, solely to subject the Agency's interest in the Project Facility to the lien thereof, all to secure one (1) or more loans made by the Bank to the Applicant with respect to the Project Facility, and (e) do all things necessary, convenient or appropriate for the accomplishment thereof. All acts heretofore taken by the Agency with respect to the foregoing are hereby approved, ratified and confirmed.

Section 7. The form and substance of the Transaction Documents, in the forms presented to the members of the Agency, together with such changes as the Chairman, the Vice Chairman, the Administrative Director/CEO or the Chief Financial Officer may hereafter deem necessary or appropriate, are hereby approved. The Chairman, the Vice Chairman, the Administrative Director/CEO and the Chief Financial Officer are hereby authorized, on behalf of the Agency, acting together or individually, to execute and deliver the Transaction Documents to

which the Agency is a party 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. The execution and delivery of each such agreement, approval and consent by such person(s) shall be conclusive evidence of such approval.

Section 8. The Chairman, the Vice Chairman, the Administrative Director/CEO and the Chief Financial Officer of the Agency are hereby further authorized, on behalf of the Agency, acting together or individually, to designate any additional Authorized Representatives (as defined in the Agency Lease) of the Agency.

Section 9. The officers, employees and agents of the Agency are hereby authorized and directed, acting individually or jointly, for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Transaction Documents, to execute and deliver all such additional certificates, instruments, agreements and documents, to pay all such fees, charges and expenses, and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, convenient or appropriate to effect the purposes of this Resolution and to cause compliance with all of the terms, covenants and provisions of the Transaction Documents to which the Agency is a party or which are binding on the Agency.

Section 10. The members of the Agency acknowledge the terms and conditions of Section 875(3) of the Act and the duties and obligations of the Agency thereunder with respect to granting of State Sales and Use Taxes (as such term is defined in Section 875 of the Act) with respect to the Project. The members hereby direct the officers of the Agency to comply with such terms and conditions with respect to the Project and hereby direct Counsel to the Agency to include such terms and conditions in all relevant Transaction Documents.

Section 11. The Chairman, the Vice Chairman, the Administrative Director/CEO and the Chief Financial Officer of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 12. 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:

Michael Metzger	AYE
Dennis J. Rak	ABSENT
Hans Auer	AYE
Gary Henry	AYE
Steven Thorpe	AYE
Brad Walters	AYE
Jay Churchill	ABSENT
Kevin Muldowney	AYE
Rhonda Johnson	AYE

The foregoing Resolution was thereupon declared duly adopted.

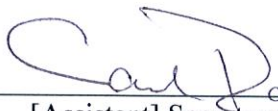
STATE OF NEW YORK            )  
  ) SS.:  
COUNTY OF CHAUTAUQUA    )

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 24, 2022 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) the meeting was duly held by videoconferencing in compliance with the requirements of Section 103-a of the Open Meetings Law, including, but not limited to, the notice provisions of such Section; (E) there was a quorum of the members of the Agency present throughout said meeting and the minimum number of members required for a quorum was physically present at one of the locations specified in the notice of the meeting, (F) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law; (G) members of the public were permitted to view such meeting via video and to participate in the proceedings via videoconference in real time to the same extent that that public participation was permitted to members of the public present in person.

WE 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, we have hereunto set our hand this 24<sup>th</sup> day of May, 2022.

  
\_\_\_\_\_  
[Assistant] Secretary

  
\_\_\_\_\_  
[Vice] Chairman

**NY Hanover II, LLC (Angell Road) -  
Deviation Approval Resolution**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on May 24, 2022, at 10:00 A.M., local time, at (i) the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”), and (ii) the SUNY Fredonia Tech Incubator, 214 Central Avenue, Dunkirk, County of Chautauqua, New York (the “Incubator”), and was conducted by videoconferencing in compliance with Section 103-a of the New York State Public Officers Law.

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

PRESENT:

Michael Metzger	Chairman	Incubator
Hans Auer	Treasurer	IDA Office
Gary Henry	Secretary	IDA Office
Steven Thorpe	Member	IDA Office
Brad Walters	Member	IDA Office
Kevin Muldowney	Member	Incubator
Rhonda Johnson	Member	IDA Office

NOT PRESENT:

Dennis J. Rak	Vice Chairman
Jay Churchill	Member

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Mark Geise	Administrative Director/CEO
Richard E. Dixon	Chief Financial Officer
Milan K. Tyler, Esq.	Counsel
Greg Peterson	Counsel
Carol Rasmussen	CCIDA Staff
Rosie Strandburg	CCIDA Staff
Kayla Strandburg	CCIDA Staff
Jason Toczydlowski	CCIDA Staff
Kristine Morabito	CCIDA Staff
Crystal Erhard	CCIDA Staff
Nate Aldrich	CCIDA Staff
Lisa Rohloff	Silver Creek Central School District

The attached resolution no. 05-24-22-12 was offered by Brad Walters, seconded by Kevin Muldowney:

RESOLUTION AUTHORIZING A DEVIATION FROM THE UNIFORM  
TAX EXEMPTION POLICY OF THE COUNTY OF CHAUTAUQUA  
INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT  
TO A PROJECT FOR NY HANOVER II, LLC AND/OR  
ITS AFFILIATES

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the Laws of 1969 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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, 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, NY HANOVER II, LLC, a limited liability company duly organized and existing under the laws of the State of New York (the “Applicant”), presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 12.82 acre portion of an approximately 47.6 acre parcel of land located on Angell Road, Town of Hanover, Chautauqua County, New York (current Tax Map No. 67.00-1-18.1) (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on a 1-axis tracking steel structure, (ii) power inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 2.2 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the

“Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the Application states that the Applicant is seeking an exemption from real property taxes with respect to the Improvements that, if granted, would constitute a deviation from the Agency’s established Uniform Tax Exemption Policy and Guidelines (the “Tax Exemption Policy”) that is published on the Agency’s website; and

WHEREAS, in accordance with Section 874(4) of the Act, (A) the Administrative Director/CEO of the Agency caused letters dated May 9, 2022 (the “Pilot Deviation Notice Letters”) to be mailed to the chief executive officer of each affected tax jurisdiction, informing said individuals that the Agency would, at its meeting on May 24, 2022 (the “IDA Meeting”), consider a proposed deviation from the Tax Exemption Policy with respect to the payment in lieu of taxes agreement to be entered into by the Agency with respect to the Improvements; and (B) the members of the Agency conducted the IDA Meeting on the date hereof and reviewed any comments and correspondence received with respect to the proposed deviation from the Tax Exemption Policy; and

WHEREAS, the Agency desires to provide for compliance with the provisions of Section 874(4) of the Act with respect to the proposed deviation from the Tax Exemption Policy;

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

Section 1. The Agency hereby determines that the Agency has fully complied with the requirements of Section 874(4) of the Act relating to the proposed deviation from the Tax Exemption Policy.

Section 2. Prior to making the determinations set forth in this Resolution, the members of the Agency have considered and weighed all of the factors set forth in the Tax Exemption Policy.

Section 3. Having reviewed all written comments and correspondence received at or prior to the IDA Meeting, the Agency hereby approves the proposed deviation from the Tax Exemption Policy as described in the Pilot Deviation Notice Letters (copies of which are attached hereto as Exhibit A) because the Property Tax Exemption (as defined in the Pilot Deviation Notice Letters) is necessary to induce the Applicant to undertake the Project in Chautauqua County. Deviating from the Policy in this instance will advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and Chautauqua County.

Section 4. The Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized and directed, acting individually or jointly, to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this



Resolution. If the Agency hereafter adopts appropriate final approving resolutions with respect to the proposed straight-lease transaction with the Applicant (the “Transaction”), the Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized and directed, acting individually or jointly, to cause the Agency to (A) enter into a Payment in Lieu of Taxes Agreement providing for, among other things, the making of payments in lieu of property taxes consistent with the Pilot Deviation Notice Letters, and (B) file an application for real property tax exemption with the appropriate assessor(s) with respect to the Improvements.

Section 5. This Resolution shall take effect immediately, but is subject to and conditioned upon the closing of the Transaction.

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

Michael Metzger	AYE
Dennis J. Rak	ABSENT
Hans Auer	AYE
Gary Henry	AYE
Steven Thorpe	AYE
Brad Walters	AYE
Jay Churchill	ABSENT
Kevin Muldowney	AYE
Rhonda Johnson	AYE

The foregoing Resolution was thereupon declared duly adopted.

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

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 24, 2022 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) the meeting was duly held by videoconferencing in compliance with the requirements of Section 103-a of the Open Meetings Law, including, but not limited to, the notice provisions of such Section; (E) there was a quorum of the members of the Agency present throughout said meeting and the minimum number of members required for a quorum was physically present at one of the locations specified in the notice of the meeting, (F) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law; (G) members of the public were permitted to view such meeting via video and to participate in the proceedings via videoconference in real time to the same extent that that public participation was permitted to members of the public present in person.

WE 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, we have hereunto set our hand this 24<sup>th</sup> day of May, 2022.

  
\_\_\_\_\_  
[Assistant] Secretary

  
\_\_\_\_\_  
[Vice] Chairman

**EXHIBIT A**

Pilot Deviation Notice Letters

See Attached



County of Chautauqua Industrial Development Agency

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May 9, 2022

**EMAIL & US MAIL DISTRIBUTION**  
**CERTIFIED MAIL/RETURN RECEIPT**  
**DELIVERY AND READ RECEIPTS REQUESTED**

Paul Wendel, County Executive  
Chautauqua County  
3 N. Erie St.  
Mayville, NY 14757

Todd Crandall, Superintendent  
Silver Creek Central School District  
1 Dickinson St.  
Silver Creek, NY 14136

Todd Johnson, Supervisor  
Town of Hanover  
68 Hanover St.  
Silver Creek, NY 14136

**NOTICE OF PROPOSED DEVIATION FROM UNIFORM  
TAX EXEMPTION POLICY AND GUIDELINES**

Gentlemen:

Notice is hereby given that at a meeting of the County of Chautauqua Industrial Development Agency (the "Agency") to be held on May 24, 2022 at 10:00 a.m., local time, at the offices of the Agency, 201 West Third Street, Jamestown, County of Chautauqua, New York, and at the SUNY Fredonia Technology Incubator, 214 Central Avenue, Dunkirk, County of Chautauqua, New York, the Agency will consider whether to approve the application of NY HANOVER II, LLC, a limited liability company duly organized and existing under the laws of the State of New York (the "Applicant"), for certain "financial assistance" which, if granted, would deviate from the Agency's Uniform Tax Exemption Policy and Guidelines (the "Policy") with respect to the payment of real property taxes.

The Applicant submitted an application for financial assistance (the "Application") to the Agency requesting that the Agency consider undertaking a project (the "Project") consisting of the following: (A)(1) the acquisition of an interest in an approximately 12.82 acre portion of an approximately 47.6 acre parcel of land located on Angell Road, Town of Hanover, Chautauqua County, New York (current Tax Map No. 67.00-1-

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201 W. Third Street, Suite 115, Jamestown, NY 14701-6902  
PH 716-661-8900 / FAX 716-664-4515  
[ccida@ccida.com](mailto:ccida@ccida.com)





County of Chautauqua Industrial Development Agency

18.1) (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on a 1-axis tracking steel structure, (ii) power inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 2.2 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency.

The Project Facility would be initially owned, operated and/or managed by the Applicant (or such other designated entity(ies) as may be designated by the Applicant and agreed upon by the Agency).

The Application states that the Applicant is seeking an abatement of real property taxes with respect the Project Facility. Based upon negotiations between representatives of the Applicant and the Agency, the parties contemplate that the Agency may agree to grant a real property tax exemption with respect to the Improvements only (the “Property Tax Exemption”). The Property Tax Exemption would result in a payment in lieu of taxes (“PILOT”) agreement between the Agency and the Applicant and/or its affiliates having a term of twenty-five (25) fiscal tax years (the “PILOT Term”), with annual PILOT payments with respect to the Improvements as follows:

<b>PILOT Year</b>	<b>Annual PILOT Payment</b>
1	\$3,600 per Megawatt A/C
2	Year 1 PILOT Payment increased by 2%
3	Year 2 PILOT Payment increased by 2%
4	Year 3 PILOT Payment increased by 2%
5	Year 4 PILOT Payment increased by 2%
6	Year 5 PILOT Payment increased by 2%
7	Year 6 PILOT Payment increased by 2%
8	Year 7 PILOT Payment increased by 2%
9	Year 8 PILOT Payment increased by 2%
10	Year 9 PILOT Payment increased by 2%
11	Year 10 PILOT Payment increased by 2%

201 W. Third Street, Suite 115, Jamestown, NY 14701-6902  
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County of Chautauqua Industrial Development Agency

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12	Year 11 PILOT Payment increased by 2%
13	Year 12 PILOT Payment increased by 2%
14	Year 13 PILOT Payment increased by 2%
15	Year 14 PILOT Payment increased by 2%
16	Year 15 PILOT Payment increased by 2%
17	Year 16 PILOT Payment increased by 2%
18	Year 17 PILOT Payment increased by 2%
19	Year 18 PILOT Payment increased by 2%
20	Year 19 PILOT Payment increased by 2%
21	Year 20 PILOT Payment increased by 2%
22	Year 21 PILOT Payment increased by 2%
23	Year 22 PILOT Payment increased by 2%
24	Year 23 PILOT Payment increased by 2%
25	Year 24 PILOT Payment increased by 2%

No exemption from real property taxes and assessments would be granted by the Agency with respect to the Land or the existing improvements thereon and the Land and such improvements would remain on the tax rolls as taxable property subject to taxation at their then current, full assessed value, as the same may be reassessed from time to time, and subject to tax rate increases imposed by the affected tax jurisdictions.

Thereafter, and through the end of the term of the lease or installment sale agreement with respect to the Project Facility, the payments would be equal to the real property taxes and assessments that would be payable as if the Improvements were returned to the tax rolls as taxable property and subject to taxation at its then current, full assessed value, as the same may be reassessed from time to time, and subject to tax rate increases imposed by the affected tax jurisdictions.

The Property Tax Exemption, if approved by the Agency, would be a deviation from the Policy.

The reason for the proposed deviation is that the Property Tax Exemption, if approved by the Agency, is necessary to induce the Applicant to undertake the Project in Chautauqua County. Deviating from the Policy in this instance will advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and Chautauqua County.

The meeting will be streamed on the Agency's website in real-time and a recording of the meeting will be posted on the Agency's website, all in accordance with Section 857 of the New York General Municipal Law, as amended.



County of Chautauqua Industrial Development Agency

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Copies of the Application, including the request for a deviation from the Policy, are available for review by the public online at [www.ccida.com](http://www.ccida.com). For additional assistance, contact the Agency at (716) 661-8900.

COUNTY OF CHAUTAUQUA INDUSTRIAL  
DEVELOPMENT AGENCY

By: Richard E. Dixon  
Richard E. Dixon  
Chief Financial Officer

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201 W. Third Street, Suite 115, Jamestown, NY 14701-6902  
PH 716-661-8900 / FAX 716-664-4515  
[ccida@ccida.com](mailto:ccida@ccida.com)



A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on May 24, 2022, at 10:00 A.M., local time, at (i) the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”), and (ii) the SUNY Fredonia Tech Incubator, 214 Central Avenue, Dunkirk, County of Chautauqua, New York (the “Incubator”), and was conducted by videoconferencing in compliance with Section 103-a of the New York State Public Officers Law.

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

PRESENT:

Michael Metzger	Chairman	Incubator
Hans Auer	Treasurer	IDA Office
Gary Henry	Secretary	IDA Office
Steven Thorpe	Member	IDA Office
Brad Walters	Member	IDA Office
Kevin Muldowney	Member	Incubator
Rhonda Johnson	Member	IDA Office

NOT PRESENT:

Dennis J. Rak	Vice Chairman
Jay Churchill	Member

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Mark Geise	Administrative Director/CEO
Richard E. Dixon	Chief Financial Officer
Milan K. Tyler, Esq.	Counsel
Greg Peterson	Counsel
Carol Rasmussen	CCIDA Staff
Rosie Strandburg	CCIDA Staff
Kayla Strandburg	CCIDA Staff
Jason Toczydlowski	CCIDA Staff
Kristine Morabito	CCIDA Staff
Crystal Erhard	CCIDA Staff
Nate Aldrich	CCIDA Staff
Lisa Rohloff	Silver Creek Central School District

The attached resolution no. 05-24-22-13 was offered by Hans Auer, seconded by Steven Thorpe:



**Resolution No. 5-24-22-13**

RESOLUTION OF THE COUNTY OF CHAUTAUQUA INDUSTRIAL  
DEVELOPMENT AGENCY PURSUANT TO THE STATE  
ENVIRONMENTAL QUALITY REVIEW ACT CONCERNING THE  
DETERMINATION OF SIGNIFICANCE FOR A CERTAIN PROJECT FOR  
DELAWARE RIVER SOLAR LLC AND/OR ITS AFFILIATES

**Name of Project:** Angell Road Solar Farm Project

**Location:** SBL 67.00-1-18.1, Angell Road, Town of Hanover, Chautauqua County,  
New York

**SEQR Status:** Type I

**Determination  
of Significance:** Negative Declaration

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of the New York State Industrial Development Agency Act, 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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, renovating, improving, maintaining, equipping and furnishing of commercial 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, among other things, (i) acquire by purchase, lease, gift, bequest, devise or otherwise real or personal property or interests therein; and (ii) 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, Delaware River Solar LLC and its affiliate NY Hanover II, LLC, two limited liability companies duly organized and existing under the laws of the State of New York (collectively the “Applicant”), submitted an application for financial assistance (the “Application”) to the Agency requesting that the Agency consider undertaking a project (the “Project”) consisting of the following: the development of one 2.2 Megawatt (alternating current or AC) community solar farm located on approximately 12.82 acres of a 47.60 acre parcel (SBL 67.00-1-18.1) in the Town of Hanover, Chautauqua County, New York (“Land”) involving the

installation of ground mounted single axis tracker photovoltaic panels as well as associated access roads, electric utility upgrades, power inverters and perimeter fencing for the solar energy systems; and

WHEREAS, pursuant to Article 8 of the New York 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 (“NYSDEC”), being 6 NYCRR Part 617, et. seq., 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 whether to undertake the Project; and

WHEREAS, on April 22, 2022, the Agency caused to be transmitted to all other potentially Interested and Involved Agencies: (1) a cover letter describing the Project; (2) a copy of the Project Application; (2) a notice of intent to act as Lead Agency; (3) a list of potentially Involved Agencies; (4) a Full Environmental Assessment Form Part I; and (5) an acknowledgement form for the Agency to act as Lead Agency; and

WHEREAS, the other potentially Involved and Interested Agencies included: Town of Hanover Town Board, Town of Hanover Planning Board, Town of Hanover Zoning Board of Appeals, Chautauqua County Planning Board, Chautauqua County Public Works, New York State Department of Environmental Conservation, New York State Department of Health, New York State Energy Research & Development Authority, New York State Historic Preservation Office, New York Natural Heritage Program, New York State Department of Agriculture and Markets, and the United States Fish and Wildlife Service; and

WHEREAS, no other potentially Involved Agency disputed the Agency’s declaration of Lead Agency status within 30 days; and

WHEREAS, the Agency is Lead Agency for the Project and undertook a coordinated review pursuant to 6 N.Y.C.R.R. 617.6(b)(3) of the Regulations; and

WHEREAS, pursuant to SEQRA, to aid the Agency in determining whether the Project may have a significant adverse impact upon the environment, the Agency has received and reviewed (1) a Part 1 of a Full Environmental Assessment Form dated July 22, 2021 and revised on May 10, 2022 (collectively the “EAF”); (2) NYSDEC’s Environmental Resource Mapper (“NYSDEC Mapper”); (3) the New York State Cultural Resource Information System (“CRIS”); (4) an Application for Financial Assistance dated April 1, 2022 (“PILOT Application”); (5) a Custom Soil Resource Report for the Site dated April 12, 2021 (“Soil Report”); (6) an IPaC Questionnaire Submitted by the Applicant to the U.S. Fish and Wildlife Service (“IPaC Questionnaire”); (7) an IPaC Official Species List from the U.S. Fish and Wildlife Service dated April 7, 2021 (“Species List”); (8) an Endangered Species Act Section 4(d) Consistency Letter from the U.S. Fish & Wildlife Service dated April 7, 2021 (“FWS Letter”); (9) a Wetland Delineation Report including representative study area photographs and U.S. Army Corp of Engineers Wetland Determination Data Forms prepared by Bergmann PC dated May 13, 2021 (“Wetland Delineation”); (10) a letter from the New York State Office of Parks, Recreation, and

Historic Preservation dated June 4, 2021 (“SHPO No Effect Letter”); (11) a letter from Bergmann Architects regarding the EAF (“Applicant Letter”); (12) other relevant environmental information (collectively, 1-12 shall be referred to as the “Environmental Information”); and

WHEREAS, prior to making a recommendation about the potential environmental significance of the Project, the Agency has reviewed the Environmental Information, consulted various information sources, and considered the list of activities which are Type I Actions outlined in Section 617.4 of the SEQRA regulations, the list of activities that are Type II Actions outlined in Section 617.5 of the SEQRA regulations and the criteria for determining significance outlined in Section 617.7 of the SEQRA regulations; and

WHEREAS, a thorough analysis of the Environmental Information and potential environmental impacts associated with the Project reveals that the Project will not have any potentially significant adverse environmental impacts; and

WHEREAS, it is appropriate that the Agency issue a negative declaration pursuant to SEQRA for the Project.

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

**Section 1.** Based upon a thorough review and examination of the Project and Environmental Information, and upon the Agency’s knowledge of the area surrounding the Land and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings with respect to the Project:

- (A) The Project is Type I Action pursuant to SEQRA, as the Project involves the construction and operation of solar-powered electrical generation facilities totaling over 10 acres of disturbance;
- (B) The Agency has undertaken a coordinated review of the Project in accordance with the requirements of SEQRA; and
- (C) No potentially significant adverse impacts on the environment are noted in the Environmental Information and none are known to the Agency.

**Section 2.** Based upon the Agency’s review of the Environmental Information and investigations of the potential environmental impacts associated with the Project, considering both the magnitude and importance of each potential environmental impact indicated, and upon the Agency’s knowledge of the Land and surrounding area and such further investigations of the Project and its environmental effects as the Agency has deemed appropriate, the Agency has determined that the Project will not have a significant adverse impact upon the environment. The reasons supporting this determination are as follows:

1. **Impact on Land.** The Project consists of the installation of a 2.2 MW AC community solar farm consisting of ground mounted single axis tracker photovoltaic panels as well

as associated access roads, electric utility upgrades, power inverters and perimeter fencing for the solar energy systems. Approximately 12.82 acres of the 47.60 acre parcel will be physically disturbed by the Project.

The Site is zoned for Agricultural and Residential uses and, as noted in the EAF, the Project is a permitted use in the zoning district upon issuance of the Special Use Permit that was previously granted for the Project. The Project is consistent with the underlying zoning of the Land as detailed in the EAF. In addition, there will be minimal physical disturbance of land to install the solar arrays as the arrays do not have large physical footprints, and the Land is relatively level, without steep slopes.

The average depth to the water table at the Site is 2.53 feet, and there are no bedrock outcroppings on the Site. The Project does not involve any excavation, mining or dredging and will be completed in a single phase. The Project will create only 0.1 acres of new impervious surfaces compared to the total parcel size of 47.60 acres. Additionally, no new point sources are proposed.

The Project is not within a Coastal Area, a waterfront area of a Designated Inland Waterway, an area with an approved Local Waterfront Revitalization Program or a Coastal Erosion Hazard Area. Accordingly, the Project is not anticipated to create any potentially significant adverse impacts to land resources or land use.

2. Impact on Geological Features. The Project does not contain and is not adjacent to any unique geologic features or National Natural Landmarks. Accordingly, the Project will not create any potentially significant adverse impacts to geological features.
3. Impact on Surface Water. The EAF notes that while the Land does contain wetlands or other surface waterbodies and stormwater runoff will be directed to on-site stormwater management systems that will not flow into adjacent properties. At the sampled location in the Wetland Delineation, there were surface waters present with a depth of two inches which acted as an overflow area from an excavated drainage ditch. The Wetland Delineation also found hydrophytic vegetation and hydric soils. However, the Wetland Delineation notes that the vegetation, soil and hydrology have all been disturbed by ongoing agricultural activities at the Site. As detailed in the Applicant Letter, however, the Project has been designed to avoid temporary and permanent impacts to the delineated wetland feature subject to the jurisdiction of the United States Army Corps of Engineers.

In connection with the total ground disturbance of the Project, the Applicant will be required to obtain a SPDES permit from NYSDEC which will mitigate any potential impacts from stormwater runoff. Further, the EAF demonstrates that the Project will minimize impervious surfaces. Lastly, the EAF demonstrates that no additional water demand will be created by the Project. Accordingly, the Project will not create any significant adverse impacts on surface water.

4. Impact on Groundwater. The EAF also demonstrates that the Project will not create a

new demand for water, generate or discharge liquid wastes, or involve bulk storage of chemicals or production of hazardous waste or any other activities that would pose a threat to groundwater. While EAF notes that 0.1 tons of solid waste will be generated per month during construction, such waste consists of office waste and cardboard from deliveries, much of which will be recyclable material. Accordingly, the Project is not anticipated to create any significant adverse impacts to groundwater.

5. Impact on Flooding. The EAF states that the Project will not result in the development of lands which are subject to flooding and does not include the impoundment of water. The Project is not within a designated floodway, the 100-year or 500-year floodplain. The Project will be constructed in accordance with any applicable local laws for flood damage prevention. Additionally, the mitigation requirements of SPDES General Permit GP-0-20-001 will ensure that any stormwater runoff is adequately managed onsite. Accordingly, the Project is not anticipated to create any significant adverse impacts to flooding.
6. Impact on Air. The Project will not include significant sources of air emissions. The Project does not entail the types of activities or operations that require the Applicant to obtain air registration permits or that are associated with a significant potential for air emissions. As demonstrated in the EAF, any impacts to air quality from construction activities will be minor, and temporary in nature. Additionally, the Project will produce clean energy which will benefit local residents and the environment by replacing energy sources which involve the combustion of fossil fuels and air emissions with clean energy. Accordingly, the Project is not anticipated to create any significant adverse impacts to air resources.
7. Impact on Plants and Animals. As noted in the EAF, the Project will result in a loss of 1.9 acres of forested area and 0.3 acres of agricultural lands. The Project will, however, increase the Site's meadows, grasslands, brushlands or abandoned agricultural land by 1.29 acres.

Based on the IPaC Questionnaire submitted by the Applicant, the Species List identified the northern long-eared bat (*myotis septentrionalis*) as a threatened species that may be present at the Site. No other Environmental Information indicates the presence of the species at the Site, and no such presence is known to the Agency. Although approximately 1.9 acres of tree clearing and conversion of agricultural land is proposed in connection with the Project, neither the treed nor the agricultural area is known to be habitat for any threatened or endangered species as noted in the EAF. Nevertheless, as detailed in the FWS Letter, any clearance of trees will occur during the months recommended by the U.S. Fish and Wildlife Service to avoid impacts to the northern long-eared bat. Further, there is sufficient forested area in close proximity to the site to provide adequate habitat for the species.

Although some impacts to flora and fauna will occur from the construction of the Project as a result of the conversion of forested and agricultural areas to a solar farm, the EAF notes that no threatened, endangered, rare, or special concern species are found on or near

the Site, and no such species will be impacted by the Project. Further, the Site does not contain a designated significant natural community.

Predominant wildlife species that occupy or use the site include raccoons, rabbits, white-tailed deer, migratory birds, gray squirrels and field rodents. The Project will not substantially interfere with the nesting/breeding, foraging or over-wintering habitat for these species because the surrounding areas provide a similar and suitable habitat for these species, and the Project would not fragment the habitat or reduce the value of the surrounding land to the species. Moreover, the Project will not involve the use of pesticides during construction or operation. Accordingly, the Project is not anticipated to create any significant adverse impacts on plants and animals.

8. Impact on Agricultural Land Resources. All of the site is farmland of statewide importance and prime farmland, with 11.5 acres in Mineral Soils Group 2 according to the NRCS Web Soil Survey and NYSDAM Soil Minerals Group Map. While the EAF notes that the Project is located in a designated agricultural district, CHAU002, and will result in the conversion of highly productive soil farmland to a solar farm, the Project includes only a small fraction of the vast acreage of overall agricultural land located in the region and will not result in increased development pressure on farmland the Town or the Concord Grape Belt Region.

The Applicant submitted a Notice of Intent (“NOI”) to the New York State Department of Agriculture and Markets (“NYSDAM”) on May 17, 2022, and will obtain a waiver from the owner of the Land with respect to the Agency prior to any conversion of the Land. The Applicant will adhere to NYSDAM’s “Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands” during and after construction to minimize any potential adverse impacts to agricultural lands. Moreover, the Project will not result in significantly decreased agricultural land in the County. Accordingly, the Project will not create any significant adverse impacts to agricultural land. In addition, the Agency has also determined, pursuant to Agriculture and Markets Law Section 305(4), that to the maximum extent practicable, adverse agricultural impacts have been minimized or avoided for the Project.

9. Impact on Aesthetic Resources. The EAF notes that the Project is not within “fives [sic] miles” of any officially designated and publicly accessible federal, state or local scenic or aesthetic resources. Any resulting visual impacts will be minor in nature, since the Project is low profile and is otherwise aesthetically unobtrusive.

Further, as noted in the EAF, there are tree-lines running east to west through the property, which will serve to mitigate potential impacts to neighboring residences or roadway traffic. Moreover, the Project will comply with the screening requirements applicable to solar energy systems contained in the Town of Hanover Zoning Law. Accordingly, the Project is not anticipated to create any significant adverse impacts to aesthetic resources.

10. Impact on Historic and Archaeological Resources. The EAF and NYSDEC Mapper note

two nearby properties that are eligible for listing on the State or National Register of Historic Places. One is located adjacent to the Site and is a residential property built in 1915, located at 12020 Angell Road (USN No. 01314.000082). The second is across Angell Road from the Site and is a residential property built in 1905, located at 12021 Angell Road (USN No. 01314.000083). The SHPO No Effect Letter states that no historic properties, including archaeological and/or historic resources would be affected by the Project. In addition, as detailed above, there are tree-lines running east to west through the property, which will serve to mitigate potential visual impacts to historic properties. Moreover, the Project will comply with the screening requirements applicable to solar energy systems contained in the Town of Hanover Zoning Law. Further, the Site is not located in an area flagged as sensitive for archaeological resources, and the SHPO No Effect Letter confirms this finding. Accordingly, the Project will not create any significant impacts to historic or archeological resources.

11. Impact on Open Space and Recreation. The Site is not in an area listed in an adopted municipal open space plan or municipal farmland protection plan, is not used by members of the community for public recreation, and is neither the Site nor any adjoining area is used for hunting, trapping, fishing or shell fishing. Accordingly, the Project will not create any significant impacts to open space or recreational resources.
12. Impact on Critical Environmental Areas. The Project is not located in or substantially contiguous to any Critical Environmental Areas. Accordingly, the Project will not create any significant impacts to Critical Environmental Areas.
13. Impact on Transportation. The Project does not involve the types of activities or operations that would be associated with an increased flow of traffic. Accordingly, the Project is not anticipated to create any significant adverse impacts on transportation.
14. Impact on Energy. The Project will not generate any new or additional demand for energy. Rather, the Project will be a source of clean, renewable energy which will benefit the community and the environment. Accordingly, the Project will not create any significant adverse impacts on energy.
15. Impact on Noise, Odor and Light. The Project is not expected to appreciably create odors or excessive lighting. The Project is expected to increase ambient noise levels during construction due to construction equipment on Monday through Saturday during the hours of 8:00 AM to 6:00 PM. However, any impacts to noise or odor from construction activities will be minor and temporary in nature. Accordingly, the Project will not create any significant adverse impacts on noise, odor or light.
16. Impact on Public Health. The Project does not involve the types of activities or operations that are associated with a significant potential for affecting public health, including the use, creation, disposal or storage of a hazardous or toxic substance. Further, any solid waste generated at the Site will be properly disposed of pursuant to Federal, State and local laws and regulations. Accordingly, the Project is not anticipated to create any significant adverse impact to public health.

17. Impact on Character of the Community and Community Plans. The Project will provide clean, renewable energy for the area. This use is consistent with the Town's land use goals set out the Town of Hanover 2000 Comprehensive Plan. While the comprehensive plan does not address solar arrays, the land use goals repeatedly emphasize the importance of promoting land uses which protect environmental resources.

While the Project does result in the conversion of agricultural land to a solar farm, the Project is not anticipated to result in secondary development effects or significant population growth. Additionally, the Town has required extensive screening and setbacks to protect adjacent properties from impacts. Accordingly, the Project will not create any significant adverse impacts to the character of the community or community plans.

**Section 3.** Since the Project will not have a significant adverse impact on the environment, a negative declaration ("Negative Declaration") pursuant to SEQRA is hereby issued. This Negative Declaration has been prepared pursuant to and in accordance with the requirements of SEQRA.

**Section 4.** The Chairman, the Vice Chairman, the Executive Director and the Administrative Director of the Agency are hereby further authorized on behalf of the Agency, or acting together or individually, to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

**Section 5.** This Resolution, which is adopted by a majority vote of the Agency, shall serve as the Negative Declaration (as defined in 6 N.Y.C.R.R. 617.2(y)) for the Project, and is issued by the Agency pursuant to and in accordance with SEQRA in a coordinated environmental impact review, shall take effect immediately.

**Section 6.** For further information on this Negative Declaration contact:

County of Chautauqua Industrial Development Agency  
201 West 3rd Street, Suite 115  
Jamestown, New York 14701-6902  
ATTN: Mark Geise, Administrative Director/CEO  
Phone: 716-661-8900  
Fax: 716-664-4515

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

Michael Metzger	AYE
Dennis J. Rak	ABSENT
Hans Auer	AYE
Gary Henry	AYE
Steven Thorpe	AYE
Brad Walters	AYE
Jay Churchill	ABSENT
Kevin Muldowney	AYE
Rhonda Johnson	AYE

The foregoing Resolution was thereupon declared duly adopted.

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

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 24, 2022 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) the meeting was duly held by videoconferencing in compliance with the requirements of Section 103-a of the Open Meetings Law, including, but not limited to, the notice provisions of such Section; (E) there was a quorum of the members of the Agency present throughout said meeting and the minimum number of members required for a quorum was physically present at one of the locations specified in the notice of the meeting, (F) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law; (G) members of the public were permitted to view such meeting via video and to participate in the proceedings via videoconference in real time to the same extent that that public participation was permitted to members of the public present in person.

WE 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, we have hereunto set our hand this 24<sup>th</sup> day of May, 2022.

  
\_\_\_\_\_  
[Assistant] Secretary

  
\_\_\_\_\_  
[Vice] Chairman

**NY Hanover II, LLC (Angell Road) -  
Approving Resolution**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on May 24, 2022, at 10:00 A.M., local time, at (i) the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”), and (ii) the SUNY Fredonia Tech Incubator, 214 Central Avenue, Dunkirk, County of Chautauqua, New York (the “Incubator”), and was conducted by videoconferencing in compliance with Section 103-a of the New York State Public Officers Law.

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

**PRESENT:**

Michael Metzger	Chairman	Incubator
Hans Auer	Treasurer	IDA Office
Gary Henry	Secretary	IDA Office
Steven Thorpe	Member	IDA Office
Brad Walters	Member	IDA Office
Kevin Muldowney	Member	Incubator
Rhonda Johnson	Member	IDA Office

**NOT PRESENT:**

Dennis J. Rak	Vice Chairman
Jay Churchill	Member

**THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:**

Mark Geise	Administrative Director/CEO
Richard E. Dixon	Chief Financial Officer
Milan K. Tyler, Esq.	Counsel
Greg Peterson	Counsel
Carol Rasmussen	CCIDA Staff
Rosie Strandburg	CCIDA Staff
Kayla Strandburg	CCIDA Staff
Jason Toczydlowski	CCIDA Staff
Kristine Morabito	CCIDA Staff
Crystal Erhard	CCIDA Staff
Nate Aldrich	CCIDA Staff
Lisa Rohloff	Silver Creek Central School District

The attached resolution no. 05-24-22-14 was offered by Steven Thorpe, seconded by Gary Henry:

Resolution No. 05-24-22-14

RESOLUTION TAKING OFFICIAL ACTION TOWARD AND APPROVING THE  
STRAIGHT LEASE DOCUMENTS FOR A CERTAIN PROJECT FOR  
NY HANOVER II, LLC AND/OR ITS AFFILIATES

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the Laws of 1969 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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, 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, NY HANOVER II, LLC, a limited liability company duly organized and existing under the laws of the State of New York (the “Applicant”), presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 12.82 acre portion of an approximately 47.6 acre parcel of land located on Angell Road, Town of Hanover, Chautauqua County, New York (current Tax Map No. 67.00-1-18.1) (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on a 1-axis tracking steel structure, (ii) power inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 2.2 megawatt A/C solar-powered electrical generation facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, in accordance with Section 859-a of the Act, any approval of the Project is contingent upon, inter alia, a determination by the members of the Agency to proceed with the Project following a determination by the Agency that (A) the public hearing and notice requirements and other procedural requirements contained in the Act relating to the Project have been satisfied; and (B) the undertaking of the Project by the Agency and the granting of the Financial Assistance are and will be in compliance with all other applicable requirements of the Act, SEQRA (as hereinafter defined), and all other statutes, codes, laws, rules and regulations of any governmental authority having jurisdiction over the Project and/or the Project Facility (collectively, the “Applicable Laws”); and

WHEREAS, the Administrative Director/CEO of the Agency (A) caused notice of a public hearing of the Agency pursuant to Section 859-a of the Act (the “Public Hearing”) to hear all persons interested in the Project and the Financial Assistance contemplated by the Agency with respect to the Project, to be mailed on May 4, 2022 to the chief executive officer of the County of Chautauqua (the “County”) and of each other affected tax jurisdiction within which the Project Facility is or is to be located, and posted a copy of the Application on the Agency’s website; (B) caused notice of the Public Hearing to be published on May 5, 2022 in *The Observer*, a newspaper of general circulation available to residents of the County; (C) caused the Public Hearing to be conducted on May 16, 2022, at 2:00 p.m., local time, at Hanover Town Hall Courtroom, 68 Hanover Street, Silver Creek, Town of Hanover, County of Chautauqua, New York; (D) caused the Public Hearing to be streamed on the Agency’s website in real-time and a recording of the Public Hearing to be posted on the Agency’s website, all in accordance with Section 857 of the Act, as amended; and (E) caused a written report of the Public Hearing to be prepared which fairly summarizes the views presented at the Public Hearing and collected written comments from the public (collectively, the “Report”) and distributed the Report to the members of the Agency; 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 (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the appropriate personnel of the Agency reviewed the environmental assessment form and other materials submitted by the Applicant and made any necessary comments to the members of the Agency, the Agency conducted a coordinated review pursuant to SEQRA, and by resolution of the members of the Agency adopted on May 24, 2022, the Agency determined that (A) the Project is a Type I Action pursuant to SEQRA, and (B) the Project would have no significant adverse environmental impacts and issued a negative declaration in accordance with SEQRA; and

WHEREAS, in accordance with Section 874(4) of the Act, (A) the Administrative Director/CEO of the Agency caused a letter dated May 9, 2022 (the “Pilot Deviation Notice Letter”) to be mailed to the chief executive officer of each affected tax jurisdiction, informing said individuals that the Agency would, at its meeting on May 24, 2022 (the “IDA Meeting”), consider a proposed deviation from the Agency’s Uniform Tax Exemption Policy and Guidelines (the “Tax Exemption Policy”) with respect to the payment in lieu of taxes agreement to be entered into by the Agency with respect to the Improvements and pursuant to which the Agency

would grant an exemption from real property taxes with respect to the Improvements only; and (B) the members of the Agency conducted the IDA Meeting on the date hereof, reviewed any comments and correspondence received with respect to the proposed deviation from the Tax Exemption Policy and approved the proposed deviation from the Tax Exemption Policy; and

WHEREAS, the Agency now desires to make its determination to proceed with the Project and to grant the Financial Assistance, subject to the terms hereof; and

WHEREAS, the Applicant and/or one (1) or more of its affiliates will (A) execute and deliver a certain Company Lease Agreement (the “Company Lease”), pursuant to which the Applicant and/or such affiliate(s) will grant to the Agency a leasehold interest in the Project Facility; (B) execute and deliver a certain Agency Lease Agreement (Uniform Project Agreement) (the “Agency Lease”), pursuant to which the Agency will grant to the Applicant and/or such affiliate(s) a subleasehold interest in the Project Facility; (C) execute and deliver a certain Payment in Lieu of Taxes Agreement (the “PILOT Agreement”) pursuant to which the Agency would grant an exemption from real property taxes with respect to the Improvements only; and (D) execute and deliver certain other certificates, documents, instruments and agreements related to the Project (together with the Company Lease, the Agency Lease and the PILOT Agreement, collectively, the “Transaction Documents”);

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

Section 1. In accordance with Section 859-a of the Act, the Agency has prepared a written cost-benefit analysis with respect to the Project and the granting of the Financial Assistance (the “Analysis”). The Agency has reviewed the Application, the Report and the Analysis, and, based upon the representations made by the Applicant to the Agency and information obtained by the Agency, the Agency has reviewed and assessed all material information necessary to afford a reasonable basis for the Agency to make a determination to approve the Financial Assistance. In addition, the Agency hereby makes the following findings and determinations with respect to the Project:

(a) based on the proposed use of the Project Facility as set forth in the Application, the economic effects of the Project on the area in which it is situated, and the employment reasonably expected to be created and/or maintained by the Project, and an analysis of how the Project contributes to the realization of the public purposes of promoting employment opportunities in the County and the prevention of economic deterioration in the County, the Project will constitute a commercial facility with a significant impact on the area in which it is situated, and will advance the Agency’s purposes by promoting employment opportunities and preventing economic deterioration in the County. Therefore, the Project constitutes a “project” within the meaning of the Act;

(b) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Applicant to undertake the Project in the County;

(c) there is a likelihood that the Project would not be undertaken but for the granting of the Financial Assistance by the Agency to the Applicant;

(d) the completion of the Project Facility, the sublease thereof by the Agency to the Applicant and the operation thereof by the Applicant will not result in the removal of a facility or plant of the Applicant or any other occupant or user of the Project Facility from one area of the State of New York (the "State") to another area of the State or in the abandonment of one or more plants or facilities of the Applicant or any other occupant or user located within the State (but outside of the County). Therefore, the provisions of subdivision (1) of Section 862 of the Act are not and will not be violated as a result of the granting of the Financial Assistance by the Agency to the Applicant;

(e) the Project will serve the public purposes of the Act by preserving permanent, private sector jobs, and increasing the overall number of permanent, private sector jobs in the State;

(f) no funds of the Agency shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant, nor shall any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State, nor shall any funds of the Agency be used for advertising or promotional materials which depict elected or appointed government officials in either print or electronic media;

(g) the Project Facility does not and will not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project. For purposes of this finding, retail sales shall mean: (i) sales by a registered vendor under Article 28 of the New York Tax Law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section 1101 of the New York Tax Law; or (ii) sales of a service to such customers;

(h) the granting of the Financial Assistance by the Agency with respect to the Project will encourage and assist the Applicant in undertaking the Project in the County, will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of the County and the State and improve their standard of living, and thereby serve the public purposes of the Act; and

(i) the Project will not result in the removal or abandonment of a plant or facility of the Applicant or any other occupant or user of the Project Facility, currently located within the County.

Section 2. The Agency hereby ratifies, confirms and approves all actions heretofore taken by the Administrative Director/CEO, Chief Financial Officer and the staff of the Agency with respect to the Application, the Analysis and the Public Hearing, including, without

limitation, (a) those actions required to ensure full compliance with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the Project, and (b) the appointment of the law firm of Phillips Lytle LLP as Counsel to the Agency with respect to all matters in connection with the Project.

Section 3. The Agency hereby determines that the Agency has fully complied with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the Project.

Section 4. Having considered fully all comments received at or in connection with the Public Hearing and the IDA Meeting, including correspondence received subsequent to the Public Hearing, the Agency hereby further determines to proceed with the Project and the granting of the Financial Assistance, subject to the terms hereof. The Agency hereby approves the granting of (a) an exemption from real property taxes having an estimated value of \$2,273,138 (b) an exemption from mortgage recording taxes in the maximum amount of \$45,000, and (c) an exemption from sales and use taxes in the maximum amount of \$318,000.

Section 5. The Agency recognizes that due to the complexities of the proposed transaction it may become necessary that certain of the terms approved hereby may require modifications from time to time which will not affect the intent and substance of the authorizations and approvals by the Agency herein. The Agency hereby authorizes the Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency, acting individually or jointly, to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution, but may include adjustments to the Financial Assistance granted hereunder. The approval of such modifications shall be evidenced by the certificate of determination of an Agency officer or the execution and delivery by some or all such Agency officers of relevant documents containing such modified terms.

Section 6. The Agency is hereby authorized to (a) acquire an interest in the Project Facility pursuant to the Company Lease and the other Transaction Documents, (b) grant a subleasehold interest in the Project Facility pursuant to the Agency Lease and the other Transaction Documents, (c) grant the Financial Assistance, (d) execute one (1) or more fee and leasehold mortgage, assignment of rents and leases, and security agreements in favor of such bank, governmental agency or financial institution as the Applicant may determine (such bank, governmental agency or financial institution, the "Bank"), encumbering the Project Facility, solely to subject the Agency's interest in the Project Facility to the lien thereof, all to secure one (1) or more loans made by the Bank to the Applicant with respect to the Project Facility, and (e) do all things necessary, convenient or appropriate for the accomplishment thereof. All acts heretofore taken by the Agency with respect to the foregoing are hereby approved, ratified and confirmed.

Section 7. The form and substance of the Transaction Documents, in the forms presented to the members of the Agency, together with such changes as the Chairman, the Vice Chairman, the Administrative Director/CEO or the Chief Financial Officer may hereafter deem necessary or appropriate, are hereby approved. The Chairman, the Vice Chairman, the Administrative Director/CEO and the Chief Financial Officer are hereby authorized, on behalf of the Agency, acting together or individually, to execute and deliver the Transaction Documents to



which the Agency is a party 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. The execution and delivery of each such agreement, approval and consent by such person(s) shall be conclusive evidence of such approval.

Section 8. The Chairman, the Vice Chairman, the Administrative Director/CEO and the Chief Financial Officer of the Agency are hereby further authorized, on behalf of the Agency, acting together or individually, to designate any additional Authorized Representatives (as defined in the Agency Lease) of the Agency.

Section 9. The officers, employees and agents of the Agency are hereby authorized and directed, acting individually or jointly, for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Transaction Documents, to execute and deliver all such additional certificates, instruments, agreements and documents, to pay all such fees, charges and expenses, and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, convenient or appropriate to effect the purposes of this Resolution and to cause compliance with all of the terms, covenants and provisions of the Transaction Documents to which the Agency is a party or which are binding on the Agency.

Section 10. The members of the Agency acknowledge the terms and conditions of Section 875(3) of the Act and the duties and obligations of the Agency thereunder with respect to granting of State Sales and Use Taxes (as such term is defined in Section 875 of the Act) with respect to the Project. The members hereby direct the officers of the Agency to comply with such terms and conditions with respect to the Project and hereby direct Counsel to the Agency to include such terms and conditions in all relevant Transaction Documents.

Section 11. The Chairman, the Vice Chairman, the Administrative Director/CEO and the Chief Financial Officer of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 12. 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:

Michael Metzger	AYE
Dennis J. Rak	ABSENT
Hans Auer	AYE
Gary Henry	AYE
Steven Thorpe	AYE
Brad Walters	AYE
Jay Churchill	ABSENT
Kevin Muldowney	AYE
Rhonda Johnson	AYE

The foregoing Resolution was thereupon declared duly adopted.

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

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 24, 2022 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) the meeting was duly held by videoconferencing in compliance with the requirements of Section 103-a of the Open Meetings Law, including, but not limited to, the notice provisions of such Section; (E) there was a quorum of the members of the Agency present throughout said meeting and the minimum number of members required for a quorum was physically present at one of the locations specified in the notice of the meeting, (F) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law; (G) members of the public were permitted to view such meeting via video and to participate in the proceedings via videoconference in real time to the same extent that that public participation was permitted to members of the public present in person.

WE 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, we have hereunto set our hand this 24<sup>th</sup> day of May, 2022.

  
\_\_\_\_\_  
[Assistant] Secretary

  
\_\_\_\_\_  
[Vice] Chairman



County of Chautauqua Industrial Development Agency

**Board of Directors**

Michael Metzger  
Chairman  
Vice President Finance &  
Administration  
SUNY Fredonia

Dennis Rak  
Vice-Chair  
Owner/Operator –  
Double A Vineyards and  
Double A Willow

Hans Auer  
Treasurer  
First Vice President -  
UBS Wealth Management  
Americas

Gary Henry  
Secretary  
Owner  
Fancher Chair Co., Inc.

Kevin Muldowney  
PED Chair

Brad Walters  
Executive Director -  
Southern Tier Builders  
Association

Steven Thorpe  
President –  
Sheet Metal Workers Local  
Union No 112

Rhonda Johnson  
President –  
Weber Knapp

Jay Churchill  
Owner – Jamestown Electro  
Plating

**RESOLUTIN NUMBER 05-24-22-15  
RESOLUTION OF THE MEMBERS OF THE  
COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY  
APPROVING ENTRY INTO VARIOUS GRANT AGREEMENTS WITH  
CHAUTAUQUA COUNTY**

**May 24, 2022**

I, Michael Metzger, Chairman of the County of Chautauqua Industrial Development Agency, a public benefit corporation (“CCIDA”) hereby certify that at a meeting of the Members of the CCIDA duly called and held at the CCIDA Board Room, 201 West Third Street, Jamestown, County of Chautauqua New York at 10:00 a.m. on the 24nd day of May, 2022 at which a quorum was present, the following resolutions were unanimously adopted:

WHEREAS, The Chautauqua County desires to Contract with the CCIDA to carryout/manage the following projects and enhanced business development services:

- Chautauqua County shall provide a sum of \$161,107.00 for Business Development, Assistance, and Promotion;
- Chautauqua County shall provide a sum of \$68,000 for Tourism Business and Destination Development and Promotion.
- Chautauqua County shall provide a sum of \$400,000 in ARPA funding to implement the Chautauqua Business Assistance Program;
- Chautauqua County shall provide a sum of \$2,500,000 in ARPA funding to implement Broadband project(s);
- Chautauqua County shall provide a sum of \$1,830,000 in an amended and restated agreement, with funding from both the County’s Capital Project Budget and ARPA funding award, to develop a new North County Industrial Park;

NOW, THEREFORE, BE IT RESOLVED, that the Administrative Director, Chief Financial Officer, Chairman, or any officer of CCIDA be and hereby is authorized to execute and deliver any and all documents necessary to effectuate the foregoing resolution, and given full ability to enter into agreements and expend funds in a manner consistent with the goals of CCPEG, and that such actions be and hereby are ratified in all respects.

By   
Authorized Representative

Date 05/24/2022

RESOLUTION NUMBER 05-24-22-16  
ADMINISTRATIVE SERVICES AGREEMENT

THIS ADMINISTRATIVE SERVICES AGREEMENT dated as of January 1, 2022 (this “Agreement”) by and between CHAUTAUQUA COUNTY CAPITAL RESOURCE CORPORATION, a not-for-profit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 201 West 3rd Street, Suite 115, Jamestown, New York 14701 (the “Corporation”) and COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation organized and existing under the laws of the State of New York having a current mailing address at 201 West 3rd Street, Suite 115, Jamestown, New York 14701 (the “Agency”). The Corporation and the Agency are sometimes individually referred to herein as the “Party”, and collectively referred to herein as the “Parties.”

WITNESSETH

WHEREAS, Section 1411 of the Not-For-Profit Corporation Law of the State of New York, as amended (the “Corporation Enabling Act”) (A) authorizes any county to cause a not-for-profit local development corporation to be incorporated by public officers for, among other things, the public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, and lessening the burdens of government and acting in the public interest, (B) declares that in carrying out the aforesaid purposes and in exercising the powers conferred in the Enabling Act, such corporations will be performing essential governmental functions, and (C) authorizes each such corporation to acquire real and personal property, to borrow money and issue negotiable bonds, notes and other obligations therefore, and to lease, sell, mortgage or otherwise dispose of or encumber any of its real or personal property upon such terms as it may determine and otherwise carry out its corporate purposes in the territory in which the operations of such corporation are principally to be conducted; and

WHEREAS, pursuant to the provisions of the Corporation Enabling Act and Revenue Ruling 57-187 and Private Letter Ruling 200936012, the County Legislature of Chautauqua County, New York (the “County”) adopted a resolution on November 18, 2009 (the “Sponsor Resolution”) (A) authorizing the incorporation of the Corporation under the Corporation Enabling Act and (B) appointing the initial members of the board of directors of the Corporation, who serve at the pleasure of the County Legislature of the County; and

WHEREAS, in March, 2010, a certificate of incorporation was filed with the New York Secretary of State’s Office (the “Certificate of Incorporation”) creating the Corporation pursuant to the Corporation Enabling Act as a public instrumentality of the County; and

WHEREAS, the New York State Industrial Development Agency Act, being 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 “Agency Enabling Act”), authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and furnish real and personal property, whether or not now in existence or under construction, which shall be suitable for, among others, manufacturing warehousing, research, commercial or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of

the State of New York and to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, the Agency was created, pursuant to and in accordance with the provisions of the Agency Enabling Act, by Chapter 71 of the 1972 Laws of the State of New York, as amended, constituting Section 895-h of said General Municipal Law (said Chapter and the Agency Enabling Act being hereinafter collectively referred to as the “Agency Act”) and is empowered under the Act to undertake activities aimed at advancing the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their standard of living; and

WHEREAS, in order to carry out its purposes, the Agency is vested with broad powers, including the authority to acquire hold and dispose of real and personal property, borrow money and issue bonds, enter into contracts and leases, and to generally do all things necessary, convenient or desirable, including ancillary and incidental activities; and

WHEREAS, by resolution adopted by the members of the Board of Directors of the Corporation on April 17, 2017, the Corporation has requested that the Agency provide administrative support services to the Corporation to further the aforementioned objectives, goals and purposes of the Corporation; and

WHEREAS, by resolution adopted by the members of the Agency on April 26, 2022, the Agency has determined that the provision of administrative support services to the Corporation is consistent with the Agency’s mission and purposes and in the best interests of the Corporation, the Agency, and the residents of Chautauqua County, New York, and within the powers vested in the Agency pursuant to the Agency Act; and

WHEREAS, the Agency has agreed to provide the Corporation with the administrative support services it has requested on the terms and conditions set forth below.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, the Parties hereto formally covenant, agree and bind themselves as follows:

SECTION 1. RECITALS. The above recitals are expressly incorporated herein and made a part of this Agreement.

SECTION 2. RETENTION OF SERVICES: PROVISION OF MEETING SPACE; PRIMARY CONTACT. (A) Contract for Services. The Corporation hereby retains the services of the Agency to perform the general administrative functions of the Corporation. In such capacity, the Agency shall provide such services as, in the sole discretion of the Agency, shall be necessary to effectively carryout the purposes of the Corporation, including but not limited to the services outlined on Schedule A attached hereto. All other services requested by the Corporation shall be performed by the Agency in the sole discretion of the Agency as its resources and time allow. The Corporation agrees to cooperate with any and all requests by the Agency made in furtherance of undertaking its obligations under this Agreement.

(B) Support Staff; Meeting Space. The Agency shall provide to the Corporation all reasonable administrative and secretarial support necessary to accomplish the Corporation’s objectives. The Agency shall make available space at its offices for regular and special meetings of the Corporation.

(C) Lead Contact. The Agency shall discharge its rights, duties and responsibilities hereunder through and under the direction of its Chief Executive Officer, who shall also be appointed by the Corporation as its Chief Executive Officer, and who will perform the services provided for herein using his or her best judgment, and in a professional manner.

SECTION 3. TERM. (A) Initial Period. The Corporation hereby retains the Agency to provide the general administrative services outlined in Section 2 above commencing as of January 1, 2022 and terminating December 31, 2022, dates inclusive (the “Initial Term”).

(B) Automatic Renewal. This Agreement shall be renewed automatically for an additional term of twelve months commencing on January 1, 2023 and each January 1st thereafter (each such twelve-month period a “Renewal Period”) unless otherwise terminated in accordance with the provisions hereof

SECTION 4 COMPENSATION. (A) Initial Term. For the Initial Term, the Corporation agrees to pay the Agency all revenue it receives, less direct expenses incurred. Payments shall be made by the Corporation as bills are rendered by the Agency [for services completed through the previous quarter and not yet paid for], in immediately available funds, payable to the Agency at its principal place of business.

(B) Renewal Periods. (1) The compensation to be paid to the Agency by the Corporation, and the terms of such payments, for each Renewal Period shall be established by written agreement of the Corporation and the Agency executed at least ten (10) business days prior to the commencement of such Renewal Period.

(2) In the event the compensation payable to the Agency for a Renewal Period is not established to the mutual satisfaction of both Parties in accordance with Section 4(B)(1) immediately above, this Agreement shall be terminable at any time during the Renewal Period upon thirty (30) days written notice from either Party.

(3) Unless terminated pursuant to Section 4(2) immediately above, in the event the compensation for any Renewal Period is not established to the mutual satisfaction of both Parties pursuant to Section 4(B)(1) above, the terms and provisions of this Agreement shall nevertheless continue until the earlier of (a) the Parties mutual agreement upon said compensation or (b) one Party gives notice of termination and thirty (30) days expires thereafter as provided in Section 4(B)(2) above (the “Negotiation Period”). During the Negotiation Period, the Corporation shall pay the Agency a per diem sum prorated for such period which shall be calculated based upon the compensation paid for the term of this Agreement immediately preceding the current Renewal Period.

(4) Prorated compensation as provided for in this Section 4 shall be paid by the Corporation to the Agency upon invoicing by the Agency to the Corporation, evidencing the calculation of such prorated compensation.

(C) Reimbursement. The Corporation shall reimburse the Agency for any and all costs paid by the Agency on behalf of the Corporation in the Agency’s capacity as the Corporation’s administrative service provider under this Agreement; provided that (1) no expenditure in excess of \$250 shall be reimbursed without the express approval of the members of the Board of Directors of the Corporation and

(2) in any event, the maximum amount of reimbursement shall not exceed \$1,000 in any one year without the express approval of the members of the Board of Directors of the Corporation.

SECTION 5. NON-EXCLUSIVE SERVICES. The Corporation and the Agency recognize that the provision of administrative and support services to the Corporation as set forth herein is not the primary or exclusive function, responsibility or activity of the Agency. Accordingly, it is understood and agreed that, as part of its normal course of business, the Agency shall engage in any and all such other activities as may be permitted by the Agency Act including the provision of those services provided hereunder to any other entity or entities.

SECTION 6. REGULATORY COMPLIANCE. To the extent of the Corporation's direction or of circumstances of which it is otherwise aware, the Agency shall use all reasonable efforts to ensure the Corporation's compliance with any and all applicable federal, state, local or other governmental or municipal laws, rules, regulations and/or judicial administrative determinations from courts or administrative bodies having jurisdiction over the Corporation or the Agency. The Agency may consult with the members of the Corporation, officers of the Corporation, counsel to the Corporation, the Corporation's accountants, and any such other consultants retained by the Corporation as the Agency deems necessary or convenient with respect to all Agency matters, or the Agency's provision of administrative support services to the Corporation. The Agency shall not be responsible to pay for the costs and/or fees of any consultants hired by the Corporation.

SECTION 7. INDEPENDENT CONTRACTOR STATUS. (A) In performing the services herein specified, the Agency is acting as independent contractor. This Agreement shall not be construed as creating a joint venture, partnership or other cooperative corporate undertaking as between the Corporation and the Agency, and the Corporation and the Agency shall retain their respective separate corporate functions and identities in all respects.

SECTION 8. CONFIDENTIALITY. (A) Definition of Confidential Material. As used herein, the term "Confidential Material" includes all information furnished by (or on account of) the Corporation or the Agency to the other Party (the recipient thereof being hereinafter referred to as the "Recipient Agency") or such other Party's representatives, counsel, directors, officers, employees or agents (collectively, the "Representatives") which is related to the Corporation's or the Agency's business operations, as the case may be, whether such information is disclosed, provided or otherwise secured in oral, written, graphic, photographic or any other form, and including, without limitation, all analyses, financial or otherwise, studies or other material prepared in respect of any action undertaken, or contemplated to be undertaken, in whole or in part by the Corporation or the Agency; provided, however, that the term "Confidential Material" shall not include any such information that (1) prior to disclosure, is known to the public, or after disclosure, becomes generally known or available to the public through no act or omission of the Recipient Agency in violation of this Agreement, or (2) is required to be disclosed pursuant to applicable laws, rules, regulations or government requirement or order, provided that the Recipient Agency shall immediately inform the other Party of its notice of any such requirement or order and its intent to disclose the same. Specific Confidential Material disclosed to a Recipient Agency shall not be deemed to be available to the public or in the prior possession of the Recipient Agency merely because it is embraced by more general information available to the general public.

(B) Restrictions on Use of Confidential Material. The Recipient Agency shall use the Confidential Material solely for the purpose or purposes for which such Confidential Material was



disclosed, and shall not use any such Confidential Material in any way detrimental to the Party providing the Confidential Material. Any Confidential Material that the Corporation or the Agency receives, discovers or otherwise learns of other than through an intentional act of disclosure by the other Party (the "Private Material") shall not be used or disclosed by the Corporation or the Agency, as the case may be, for any purpose whatsoever, and such Private Material shall immediately be returned to, or the receipt thereof disclosed to, the other Party. The Recipient Agency shall take reasonable steps to ensure that the Confidential Material is kept confidential and to ensure that unauthorized persons do not gain access thereto; provided, however that such Confidential Material may be disclosed to those Representatives of the Recipient Agency who have a need to know such information if each such Representative is informed by the Recipient Agency of the confidential nature of such information and of the confidentiality undertakings of the Recipient Agency contained herein. The Recipient Agency shall be responsible for any breach of this Agreement by its Representatives. Neither the Recipient Agency nor its Representatives shall disclose to any third party any Confidential Material disclosed by the other Party, even if such third party is under obligations of confidentiality, nor inform any third party of the fact that the Confidential Material has been made available to the Recipient Agency, without the prior consent of the other Party.

SECTION 9. NONCOMPETITION. Notwithstanding that it is intention of both the Corporation and the Agency that the Agency's services herein are not project specific, the parties acknowledge that there may be an occasion where a project of the Corporation is one that the Agency originally presented or revealed to the Corporation or which the Corporation learned of by virtue of the relationship set forth in this Agreement (an "Exclusive Project"). During the term of this Agreement, and for so long as the Agency shall continue its involvement with an Exclusive Project, the Corporation shall not, directly or indirectly, under any circumstances, including without limitation, for its own account, or as agent, employee or consultant, or as a shareholder, partner, member or other equity owner of any corporation or other entity, anywhere within Chautauqua County, engage or attempt or prepare to participate in, whether as sole funding source or otherwise, the Exclusive Project without the prior express written consent of the Agency, which such consent may be withheld in the sole and absolute discretion of the Agency.

SECTION 10. DISCLOSURE OF PARTICIPATION IN PROJECTS. If the Corporation or the Agency shall have agreed, in writing or otherwise, to provide financial or other incentives with respect to any project submitted to the other Party for consideration, the Corporation or the Agency, as the case may be, shall disclose in writing to the other Party the nature of its commitment to such project; provided, however, that the lack of any disclosure required under this Section 10 of this Agreement shall not invalidate any project otherwise approved by the Corporation or the Agency in compliance with applicable laws.

SECTION 11. TERMINATION. (A) This Agreement shall be terminable upon thirty (30) days written notice from either Party to the other, specifically referring to this Agreement. In the event of such termination, the annual (or monthly) fee paid by the Corporation to the Agency shall be prorated through the date of termination. If the Corporation has prepaid compensation to the Agency prior to termination, the Agency shall refund to the Corporation the amount so prepaid from the effective date of termination through the date of such prepayment.

(B) In the event that it is finally determined by a court of competent jurisdiction, after all appeals shall have been exhausted or abandoned, that this Agreement, and the provision of services hereunder by the Agency to the Corporation, shall be in violation or contravention of the Agency Act or the Public Authorities Accountability Act ("PAAA"), this Agreement shall terminate immediately upon

the entry of such final order (an "Ordered Termination"), and neither Party shall be entitled to recover any damages from the other Party as a result of such Ordered Termination.

SECTION 12. RIGHT TO INSPECT BOOKS AND RECORDS. Members and officers of the Corporation and its consultants shall have the right to inspect any and all books and records maintained by the Agency on behalf of the Corporation at the Agency's offices and upon reasonable notice.

SECTION 13. ASSIGNMENT PROHIBITED. This Agreement shall not be assignable by either Party without the prior written consent of the other; provided, however, that this Agreement may be undertaken and discharged by any successor which may be constituted and empowered in the place and stead of the Agency, or any successor industrial development agency which may be constituted and empowered in the place and stead of the Corporation, in accordance with applicable law.

SECTION 14. INDEMNIFICATION. (A) The Corporation agrees to defend, indemnify and hold the Agency harmless from and against any and all claims, demands, causes of action, administrative actions, demands of governmental agencies, judgments, costs or expenses (including, but not necessarily limited to, reasonable attorneys' fees, and any and all costs, fees and expenses incurred in representation and defense of the Agency), liabilities, damages or losses which may be asserted by or against the Agency on account of any acts or omissions of the Corporation, its members, employees, agents, or invitees with respect to the Corporation's affairs, or on account of any acts or omissions of the Agency or its employees acting in good-faith and within the course and scope of the obligations which the Agency has been retained by this Agreement to undertake on behalf of the Corporation, either express or implied, as such obligations are determined by the Agency in its sole judgment, or upon the advice of counsel.

(B) The Agency shall defend and indemnify and hold the Corporation harmless from and against any and all claims, demands, causes of action, administrative actions, demands of governmental agencies, judgments, costs or expenses (including, but not necessarily limited to, reasonable attorneys' fees, and any and all costs, fees and expenses incurred in representation and defense of the Corporation), liabilities, damages or losses which may be asserted by or against the Corporation on account of any acts or omissions of the Agency, its members, employees, agents, or invitees with respect to the Agency's affairs other than those acts or omissions which are undertaken and performed by the Agency or its employees acting in good-faith and within the course and scope of the obligations which the Agency has been retained by this Agreement to undertake on behalf of the Corporation, either express or implied, as such obligations are determined by the Agency in its sole judgment, or upon the advice of counsel, including without limitation, those matters set forth in Section 6 hereof.

SECTION 15. ENTIRE AGREEMENT; AMENDMENT. This Agreement contains the entire agreement and understanding of the Parties with respect to the subject matter hereof and fully supersedes all prior agreements, proposals, representations, arrangements or understandings, written or oral, with respect to such subject matter. This Agreement shall only be amended by a writing which specifically references this Agreement and which is signed by the Parties.

SECTION 16. SEVERABILITY. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. If, however, any provision of this Agreement or the application thereof to any person or circumstance shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable to any extent, that provision or any portion thereof shall be stricken from this Agreement and the remainder of this Agreement shall not be affected thereby and shall be enforced to the fullest extent permitted by law.

SECTION 17. GOVERNING LAW. This Agreement shall be governed by and interpreted and construed in accordance with the laws of the State of New York, without giving effect to any conflict of laws or choice of law rules that would defeat the application of New York law.

SECTION 18. FURTHER ASSURANCES. The Corporation and the Agency agree that each will, from time to time, at the request of the other Party and at the other Party's expense, promptly take all such action, and execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplemental agreements and/or further instruments as may be reasonably required to carry out and enforce the express intention and the various provisions of this Agreement, and otherwise enable the Corporation and the Agency to enjoy the respective benefits contemplated hereunder.

SECTION 19. NOTICES. (A) Form and Effect. All notices, certificates or other communications required or contemplated to be provided hereunder shall be sufficiently delivered and deemed given when (1) delivered to the applicable address stated below by registered or certified mail, return receipt requested, or by such other means as shall provide the sender with documentary evidence of such delivery, or (2) delivery is refused by the addressee, as evidenced by the person or entity who attempted to effect such delivery.

(B) The addresses to which notices, certificates or other communications shall be delivered are as follows:

IF TO THE CORPORATION:

Chautauqua County Capital Resource Corporation  
201 West 3rd Street, Suite 115  
Jamestown, New York 14701  
Attention: Chairman

WITH A COPY TO:

Hodgson Russ LLP  
677 Broadway, Suite 301  
Albany, New York 12207  
Attention: Christopher C. Canada, Esq.

IF TO THE AGENCY:

County of Chautauqua Industrial Development Agency  
201 West 3rd Street, Suite 115  
Jamestown, New York 14701  
Attention: Chairman

WITH A COPY TO:

Hodgson Russ LLP  
677 Broadway, Suite 301  
Albany, New York 12207  
Attention: Christopher C. Canada, Esq.

(C) The Corporation and the Agency may, by notice given hereunder, designate any further or different addresses or addressees to which subsequent notices, certificates or other communications shall be sent.

SECTION 20. SURVIVAL. The provisions of this Agreement shall survive the termination of the relationship between the Corporation and the Agency and the assignment of this Agreement by either Party to any successor in interest or other assignee.

SECTION 21. INJUNCTIVE RELIEF. The Corporation and the Agency acknowledge that should either Party violate the provisions of Section 8 of this Agreement, it will be difficult or impossible to determine the resulting damages to the other Party. Therefore, in the event either Party breaches the provisions of Section 8 hereof, in addition to any other remedies it may have, the Corporation and/or the Agency shall be entitled to temporary and permanent injunctive relief to enforce the provisions of Section 8 of this Agreement without the necessity of proving actual damages.

SECTION 22. ARBITRATION. Any dispute arising under this Agreement shall be promptly submitted to non-binding arbitration before a single arbitrator selected by the American Arbitration Association, or to any other arbitrator mutually agreed upon by the Parties, and the arbitrator shall render a recommendation as to resolution of such dispute or controversy. The Parties may accept the recommendation of the arbitrator and settle the dispute or controversy according the terms of said recommendation or, alternatively, either Party may reject the arbitrator's recommendation, in which case either Party may institute a cause of action in a court of competent jurisdiction in order to settle the dispute or controversy. Any expenses incurred in connection with arbitration shall be paid for equally by the Parties to such dispute. Any such arbitration shall take place in Chautauqua County, New York.

SECTION 23. BENEFIT OF AGREEMENT. This Agreement is for the exclusive benefit of the Corporation and the Agency and their respective permissible successors and assigns.

SECTION 24. COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

SECTION 25. EFFECTIVENESS. The Parties hereto agree and understand that this Agreement may require approval or ratification by the Board of Directors of the Corporation and the members of the Agency. The Parties agree that if such approval has not been obtained by the Corporation or the Agency as of the date of execution of this Agreement, then immediately following the execution hereof, both Parties will seek ratification from their respective governing bodies for this Agreement and the services contemplated herein. This Agreement shall therefore become effective upon the approval of both the Board of Directors of the Corporation and the members of the Agency.

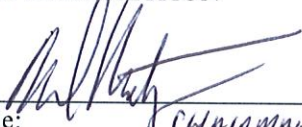
SECTION 26. Compliance with all Laws. The Parties hereto agree and acknowledge that each and every term and provision in this Agreement shall be construed to comply in all respects with all laws, rules and regulations, including without limitation, the Corporation Enabling Act, the Agency Act and the PAAA, all as may be amended, modified, supplemented or interpreted, from time to time. No default by either Party shall exist nor do any rights and remedies accrue to either Party under this Agreement for a breach or default in such Party's obligations under this Agreement if it is reasonably determined that the Corporation Enabling Act, the Agency Act or the PAAA prohibit such Party's actions required to fulfill its obligations.

SECTION 27. MISCELLANEOUS. Any section titles and captions contained in this Agreement are for convenience only and shall not be deemed part of the substance of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the Parties have set their hands, as of the date and year first written above.

CHAUTAUQUA COUNTY CAPITAL  
RESOURCE CORPORATION

By:   
Title: Chairman

COUNTY OF CHAUTAUQUA INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Title: Chairman

## **SCHEDULE A**

### **I. Board Support**

- A. Schedule regular meetings of the Corporation Board (and special meetings as required) consistent with State Open Meeting requirements.
- B. Provide notice of meetings to Corporation Board members and public as required.
- C. Prepare meeting agendas or other such written material as may be necessary to the Corporation Board's consideration of matters to be discussed.
- D. Hold Corporation meetings at the Agency's offices or other locations as directed by the Corporation Board.
- E. Attend meetings and prepare draft meeting minutes for consideration of the Corporation Board.
- F. Maintain a secure record of meeting minutes for the benefit of the Corporation Board and the public
- G. Assist the Corporation Board in the development, implementation, and periodic review of required and/or desired management policies and procedures, including (but not necessarily limited to) the statutorily-mandated Investment, Procurement and Property Disposition Policies.
- H. Communicate and/or correspond on behalf of the Corporation Board with individuals, groups, organizations, corporate business or public entities and regulatory authorities within the authority and limits established (or as otherwise directed) by the Corporation Board.

### **II. Records Management**

- A. Maintain paper documents and electronic data records in the manner prescribed by the Board and for time periods consistent with Corporation Board policy and New York State statutory requirements.
- B. Provide access to Corporation records in full compliance with the New York State Freedom of Information Law and consistent with procedures and standards established by the Corporation's Board.

### **III Financial Management**

- A. Maintain a full record of the financial assets and liabilities of the Corporation in a manner consistent with policies and procedures established by the Corporation Board or as required by the New York State Authorities Budget Office.
- B. Maintain a full record of cash (and non-cash) transactions affecting the book values of the Corporation's financial assets and liabilities in a manner consistent with policies and

procedures established by the Corporation Board or as required by the New York State Authorities Budget Office.

- C. Provide for the prompt approval by the Corporation Board (or its authorized designees) of payment of Corporation obligations and any related cash disbursements.
- D. Provide for the prompt and secure deposit or investment of cash receipts of the Corporation into Corporation Board-approved financial institutions in accordance with the Corporation's Investment Policy and in conformity with the New York General Municipal Law, Article 2, Section 10 and Section 11.
- E. Provide for the timely billing and invoicing of Corporation receivables, the accurate recording of payments received, and the regular reporting to the Corporation Board of amounts outstanding, accounts not making payments in accordance with contractual terms, and the steps undertaken to cure defaults or otherwise collect payments owing, all in accordance with the Corporation's collection policies and procedures.
- F. Assist in the annual preparation of the Corporation budget for consideration by the Corporation Board and distribute the budget upon its approval as required by the PAAA.
- G. Assist in the annual preparation of the Corporation audit of financial records for consideration by the Corporation Board and distribute the report upon its approval in the manner and timeframe prescribed by the PAAA.
- H. Provide periodic reports of financial condition and performance (including reports of performance against budgeted revenues and expenditures) as required by the Corporation Board.
- I. Provide such analyses of financial activities, costs and benefits of project proposals, etc. as may be required by the Corporation Board.

#### **IV. Risk Management**

- A. Assist the Corporation Board in identifying the various risk elements associated Corporation activities and operations, quantifying the probable costs inherent with such risks, and developing appropriate strategies to manage such risks in a cost-effective manner.
- B. Assist in the selection of appropriate insurance products and providers as deemed appropriate by the Corporation Board.
- C. Obtain and maintain evidence of indirect coverage in accordance with Corporation Board policy from contractors, agents, or owners of projects receiving Agency assistance.
- D. Provide periodic review of the Corporation's risk management program in the manner and timeframes established by the Corporation Board.



**V. Property Management**

- A. Act as owner's representative in securing, maintaining, leasing, or disposing of properties acquired by the Corporation.

**VI. Project Management**

- A. Act as the Corporation's primary point of contact with the public and the business community in order to promote the Corporation's services and capabilities for providing financial assistance to projects deemed desirable by the Corporation Board.
- B. Actively engage in effective communications with prospective applicants, financial intermediaries, and other local, regional, and state development organizations to encourage awareness of the Corporation's interest and ability to provide meaningful assistance to commercial development proposals.
- C. Work closely with applicants to secure information required by the Corporation Board in order to afford meaningful assistance.
- D. Assist the Corporation Board in developing and implementing selection criteria for projects receiving Corporation assistance.
- E. Assist the Corporation in the evaluation of applicant project proposals, including (but not necessarily limited to):
  - 1. Environmental impact (as may be required under the New York State Environmental Quality Review Act);
  - 2. Credit risk analysis, as appropriate;
  - 3. Cost-benefit analysis;
  - 4. Other factors as may be required.
- F. Negotiate terms and conditions relating to the financial assistance under consideration on behalf of and for the consideration by the Corporation Board
- G. Assist counsel in the preparation of legal documentation necessary to provide the assistance approved by the Corporation Board.
- H. Deliver the assistance approved by the Corporation Board in the manner and timeframe stipulated, and provide periodic reports of the status of the project as required by the Corporation Board
- I. Monitor and document the impact of the project following completion (especially relating to job creation).