

POMFRET II PV, LLC - Consent Resolution

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on July 23, 2024, at 10:30 A.M., local time, at the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”).

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

PRESENT:

Gary Henry	Chairman
Bradley Walters	Vice Chairman
Daniel Heitzenrater	Secretary
Steven Thorpe	Member
Amy Harding	Member
Daniel DeMarte	Member
Tom Harmon	Member
Kevin Muldowney	Member

NOT PRESENT:

Sagan Sheffield-Smith	Treasurer
-----------------------	-----------

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
Lisa Cole	Counsel
Kristine Morabito	IDA Staff
Rosie Strandburg	IDA Staff
Carol Rasmussen	IDA Staff
Kayla Strandburg	IDA Staff
Nate Aldrich	IDA Staff
Jeanette Lo Bello	IDA Staff
Jason Sample	IDA Staff
Crystal Erhard	IDA Staff
Paul Wendel	County Executive
Vince DeJoy	City of Dunkirk
Lee Crewson	401 Central LLC

Craig Marlatt	Peak Preconstruction
Gage Hayes	IDA Intern
Nick Swanson	IDA Intern
Katie Kemp	Member of the public
Dan (last name unknown)	Member of the public
Jonathan Epstein	Buffalo News
Greg Bacon	Jamestown Post Journal
Julia Ciesla-Hanley	WRFA 107.9

The attached resolution no. 07-23-24-01 was offered by Brad Walters, seconded by Tom Harmon:

Resolution No. 07-23-24-01

RESOLUTION AUTHORIZING CERTAIN MATTERS IN CONNECTION
WITH A CERTAIN PROJECT FOR POMFRET II PV, LLC

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, by resolution adopted by the members of the Agency on May 24, 2022 (the “Authorizing Resolution”), the Agency, following a review of the Report, determined to proceed with the Project, to grant the Financial Assistance and to enter into the “straight lease transaction” (as such quoted term is defined in the Act) contemplated by the Project Agreement (as hereinafter defined) and the other Transaction Documents (as defined in the Project Agreement); and

WHEREAS, the Agency appointed the Applicant as agent of the Agency to undertake the acquisition, construction, installation and equipping of the Project Facility and the Agency has subleased the Project Facility to the Applicant all pursuant to the terms and conditions set forth in the Agency Lease Agreement (Uniform Project Agreement) between the Applicant and the Agency dated as of June 1, 2024 (as amended to date, the “Project Agreement”), and the other Transaction Documents; and

WHEREAS, pursuant to a request for additional financial assistance dated June 14, 2024 (the “Supplemental Application”), the Applicant has requested that the Agency (i) grant certain additional “financial assistance” within the meaning of the Act with respect to the Project in the form of an additional exemption from sales and use taxes in an amount not to exceed \$163,366.26 to cover cost increases (the “Additional Financial Assistance”), and (ii) consent to the amendment of the Project Agreement and the other Transaction Documents in connection with the foregoing, all to allow the Applicant to complete to complete the acquisition, construction, installation and equipping of the Project Facility; 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 “Supplemental Public Hearing”) to hear all persons interested in the granting of the Additional Financial Assistance contemplated by the Agency with respect to the Project, to be mailed on June 14, 2024 to the chief executive officer of 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 Supplemental Application on the Agency’s website; (B) caused notice of the Supplemental Public Hearing to be published on June 14, 2024 in the *Observer*, a newspaper of general circulation available to residents of the County; (C) caused the Supplemental Public Hearing to be conducted on June 24, 2024, at 11:30 a.m., local time, at Town of Pomfret Town Hall, 9 Day Street, Fredonia, Town of Pomfret, County of Chautauqua, New York; (D) caused the Supplemental Public Hearing to be streamed on the Agency’s website in real-time and a recording of the Supplemental 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 Supplemental Public Hearing to be prepared which fairly summarizes the views presented at the Supplemental Public Hearing and collected written comments from the public (collectively, the “Supplemental Report”) and distributed the Supplemental Report to the members of the Agency; and

WHEREAS, the Agency now desires to make its determination to grant the Additional Financial Assistance, subject to the terms hereof;

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

Section 1. The Agency hereby ratifies, confirms and approves actions heretofore taken by the Chairman and the staff of the Agency with respect to the matters contemplated by this Resolution, including, without limitation, those actions required to ensure full compliance with the requirements of the Act, SEQRA, and all other Applicable Laws that relate thereto.

Section 2. The Agency hereby determines that the Applicant's request with respect to the previously approved and unchanged Project is a Type II Action pursuant to SEQRA involving “continuing agency administration” which does not involve “new programs or major reordering of priorities that may affect the environment” (6 NYCRR §617.5(c)(20)) and therefore no findings or determination of significance are required under SEQRA.

Section 3. The Agency has considered the request made by the Applicant and hereby finds and determines that granting the requested consent will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of Chautauqua County, New York, and improve their standard of living, and thereby serve the public purposes of the Act.

Section 4. The Agency has reviewed the Supplemental Application and the Supplemental Report, 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 Additional Financial Assistance.

Section 5. 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 requested consent.

Section 6. Having considered fully all comments received at or in connection with the Supplemental Public Hearing, including correspondence received subsequent to the Public Hearing, the Agency hereby further determines to proceed with the granting of the Additional Financial Assistance, subject to the terms hereof. Accordingly, the Agency hereby approves the Applicant’s request that the Agency grant an additional \$163,366.26 in sales and use tax exemptions with respect to the Project such that the Maximum Sales Tax Benefit shall not exceed \$418,555.26 in the aggregate.

Section 7. The Chairman, Vice Chairman, Administrative Director/CEO and the Chief Financial Officer of the Agency are each hereby designated an Authorized Representative of the Agency and each of them is hereby authorized and directed, acting individually or jointly, to execute and deliver any and all consents, agreements, amendments, papers, instruments, opinions, certificates, affidavits and other documents required in connection with the consent and waiver

authorized hereby (collectively, the “Consent Documents”), and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, including, without limitation, taking any necessary action to obtain consent of any other person or party necessary with respect to execution, delivery and approval of the Consent Documents, The execution and delivery of the Consent Documents by any one of said officers shall be conclusive evidence of due authorization and approval. The execution and delivery of the Consent Documents, being substantially in the forms used for prior similar transactions, are hereby authorized and approved and ratified.

Section 8. The authorizations set forth in this Resolution are subject to the conditions that the Applicant shall reimburse the Agency for all costs and expenses incurred by the Agency in connection with the transactions contemplated herein, including, without limitation, the Agency's consent and amendment fee in the amount of \$0.00 and all reasonable attorneys' fees and disbursements incurred by the Agency, including without limitation, the fees and expenses of Special Counsel, Phillips Lytle LLP.

Section 9. The Chairman, the Administrative Director/CEO and the Chief Financial Officer of the Agency are each hereby authorized to approve modifications to the terms approved herein which are not inconsistent with the intent and substance of this Resolution, such approval to be evidenced by the execution by any one of such officers of the Consent Documents containing such modifications.

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:

Gary Henry	AYE
Bradley Walters	AYE
Sagan Sheffield-Smith	ABSENT
Dan Heitzenrater	AYE
Steven Thorpe	AYE
Kevin Muldowney	AYE
Amy Harding	AYE
Daniel DeMarte	AYE
Tom Harmon	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 July 23, 2024 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) there was a quorum of the members of the Agency present throughout said meeting; and (E) 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.

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 23rd day of July, 2024.



[Assistant] Secretary



[Vice] Chairman

(SEAL)

HANOVER II PV, LLC - Consent Resolution

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on July 23, 2024, at 10:30 A.M., local time, at the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”).

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

PRESENT:

Gary Henry	Chairman
Bradley Walters	Vice Chairman
Daniel Heitzenrater	Secretary
Steven Thorpe	Member
Amy Harding	Member
Daniel DeMarte	Member
Tom Harmon	Member
Kevin Muldowney	Member

NOT PRESENT:

Sagan Sheffield-Smith	Treasurer
-----------------------	-----------

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
Lisa Cole	Counsel
Kristine Morabito	IDA Staff
Rosie Strandburg	IDA Staff
Carol Rasmussen	IDA Staff
Kayla Strandburg	IDA Staff
Nate Aldrich	IDA Staff
Jeanette Lo Bello	IDA Staff
Jason Sample	IDA Staff
Crystal Erhard	IDA Staff
Paul Wendel	County Executive
Vince DeJoy	City of Dunkirk
Lee Crewson	401 Central LLC

Craig Marlatt	Peak Preconstruction
Gage Hayes	IDA Intern
Nick Swanson	IDA Intern
Katie Kemp	Member of the public
Dan (last name unknown)	Member of the public
Jonathan Epstein	Buffalo News
Greg Bacon	Jamestown Post Journal
Julia Ciesla-Hanley	WRFA 107.9

The attached resolution no. 07-23-24-02 was offered by Dan Heitzenrater, seconded by Tom Harmon:

Resolution No. 07-23-24-02

RESOLUTION AUTHORIZING CERTAIN MATTERS IN CONNECTION
WITH A CERTAIN PROJECT FOR HANOVER II PV, LLC

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, HANOVER 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 29.5 acre parcel of land located at 11064 Hanover Road, Forestville, Town of Hanover, Chautauqua County, New York (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) approximately 10,556 solar photovoltaic modules mounted on a 1-axis tracking steel structure, (ii) twenty-three (23) 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 4.75 megawatt 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; 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 January 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 January 6, 2022 in the *Observer*, a newspaper of general circulation available to residents of the County; (C) caused the Public Hearing to be conducted on January 18, 2022, at 11:30 a.m., local time, at Town of Hanover Town Hall, 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, and by resolution of the members of the Agency adopted on January 25, 2022, the Agency determined that 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 Chief Financial Officer of the Agency caused a letter dated January 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 January 25, 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, by resolution adopted by the members of the Agency on January 25, 2022 (the “Authorizing Resolution”), the Agency, following a review of the Report, determined to proceed with the Project, to grant the Financial Assistance and to enter into the “straight lease transaction” (as such quoted term is defined in the Act) contemplated by the Project Agreement (as hereinafter defined) and the other Transaction Documents (as defined in the Project Agreement); and

WHEREAS, the Agency appointed the Applicant as agent of the Agency to undertake the acquisition, construction, installation and equipping of the Project Facility and the Agency has subleased the Project Facility to the Applicant all pursuant to the terms and conditions set forth in the Agency Lease Agreement (Uniform Project Agreement) between the Applicant and the Agency dated as of June 1, 2024 (as amended to date, the “Project Agreement”), and the other Transaction Documents; and

WHEREAS, pursuant to a request for additional financial assistance dated June 14, 2024 (the “Supplemental Application”), the Applicant has requested that the Agency (i) grant certain additional “financial assistance” within the meaning of the Act with respect to the Project in the form of an additional exemption from sales and use taxes in an amount not to exceed \$118,805.94 to cover cost increases (the “Additional Financial Assistance”), and (ii) consent to the amendment of the Project Agreement and the other Transaction Documents in connection with the foregoing, all to allow the Applicant to complete to complete the acquisition, construction, installation and equipping of the Project Facility; 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 “Supplemental Public Hearing”) to hear all persons interested in the granting of the Additional Financial Assistance contemplated by the Agency with respect to the Project, to be mailed on June 14, 2024 to the chief executive officer of 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 Supplemental Application on the Agency’s website; (B) caused notice of the Supplemental Public Hearing to be published on June 14, 2024 in the *Observer*, a newspaper of general circulation available to residents of the County; (C) caused the Supplemental Public Hearing to be conducted on June 24, 2024, at 1:30 p.m., local time, at Town of Hanover Town Hall, 68 Hanover Street, Silver Creek, Town of Hanover, County of Chautauqua, New York; (D) caused the Supplemental Public Hearing to be streamed on the Agency’s website in real-time and a recording of the Supplemental 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 Supplemental Public Hearing to be prepared which fairly summarizes the views presented at the Supplemental Public Hearing and collected written comments from the public (collectively, the “Supplemental Report”) and distributed the Supplemental Report to the members of the Agency; and

WHEREAS, the Agency now desires to make its determination to grant the Additional Financial Assistance, subject to the terms hereof;

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

Section 1. The Agency hereby ratifies, confirms and approves actions heretofore taken by the Chairman and the staff of the Agency with respect to the matters contemplated by this Resolution, including, without limitation, those actions required to ensure full compliance with the requirements of the Act, SEQRA, and all other Applicable Laws that relate thereto.

Section 2. The Agency hereby determines that the Applicant's request with respect to the previously approved and unchanged Project is a Type II Action pursuant to SEQRA involving “continuing agency administration” which does not involve “new programs or major reordering of priorities that may affect the environment” (6 NYCRR §617.5(c)(20)) and therefore no findings or determination of significance are required under SEQRA.

Section 3. The Agency has considered the request made by the Applicant and hereby finds and determines that granting the requested consent will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of Chautauqua County, New York, and improve their standard of living, and thereby serve the public purposes of the Act.

Section 4. The Agency has reviewed the Supplemental Application and the Supplemental Report, 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 Additional Financial Assistance.

Section 5. 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 requested consent.

Section 6. Having considered fully all comments received at or in connection with the Supplemental Public Hearing, including correspondence received subsequent to the Public Hearing, the Agency hereby further determines to proceed with the granting of the Additional Financial Assistance, subject to the terms hereof. Accordingly, the Agency hereby approves the Applicant’s request that the Agency grant an additional \$118,805.94 in sales and use tax exemptions with respect to the Project such that the Maximum Sales Tax Benefit shall not exceed \$415,502.94 in the aggregate.

Section 7. The Chairman, Vice Chairman, Administrative Director/CEO and the Chief Financial Officer of the Agency are each hereby designated an Authorized Representative of the Agency and each of them is hereby authorized and directed, acting individually or jointly, to execute and deliver any and all consents, agreements, amendments, papers, instruments, opinions, certificates, affidavits and other documents required in connection with the consent and waiver authorized hereby (collectively, the “Consent Documents”), and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, including, without limitation, taking any necessary action to obtain consent of any other person or party necessary with respect to execution, delivery and approval of the Consent Documents, The execution and delivery of the Consent Documents by any one of said officers shall be conclusive evidence of due authorization and approval. The execution and delivery of the Consent Documents, being substantially in the forms used for prior similar transactions, are hereby authorized and approved and ratified.

Section 8. The authorizations set forth in this Resolution are subject to the conditions that the Applicant shall reimburse the Agency for all costs and expenses incurred by the Agency in connection with the transactions contemplated herein, including, without limitation, the Agency's consent and amendment fee in the amount of \$0.00 and all reasonable attorneys' fees and disbursements incurred by the Agency, including without limitation, the fees and expenses of Special Counsel, Phillips Lytle LLP.

Section 9. The Chairman, the Administrative Director/CEO and the Chief Financial Officer of the Agency are each hereby authorized to approve modifications to the terms approved herein which are not inconsistent with the intent and substance of this Resolution, such approval to be evidenced by the execution by any one of such officers of the Consent Documents containing such modifications.

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:

Gary Henry	AYE
Bradley Walters	AYE
Sagan Sheffield-Smith	ABSENT
Dan Heitzenrater	AYE
Steven Thorpe	AYE
Kevin Muldowney	AYE
Amy Harding	AYE
Daniel DeMarte	AYE
Tom Harmon	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 July 23, 2024 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) there was a quorum of the members of the Agency present throughout said meeting; and (E) 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.

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 23rd day of July, 2024.



[Assistant] Secretary



[Vice] Chairman

(SEAL)

401 Central, LLC - Due Diligence Resolution

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on July 23, 2024, at 10:30 A.M., local time, at the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”).

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

PRESENT:

Gary Henry	Chairman
Bradley Walters	Vice Chairman
Daniel Heitzenrater	Secretary
Steven Thorpe	Member
Amy Harding	Member
Daniel DeMarte	Member
Tom Harmon	Member
Kevin Muldowney	Member

NOT PRESENT:

Sagan Sheffield-Smith	Treasurer
-----------------------	-----------

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
Lisa Cole	Counsel
Kristine Morabito	IDA Staff
Rosie Strandburg	IDA Staff
Carol Rasmussen	IDA Staff
Kayla Strandburg	IDA Staff
Nate Aldrich	IDA Staff
Jeanette Lo Bello	IDA Staff
Jason Sample	IDA Staff
Crystal Erhard	IDA Staff
Paul Wendel	County Executive
Vince DeJoy	City of Dunkirk
Lee Crewson	401 Central LLC
Craig Marlatt	Peak Preconstruction

Gage Hayes	IDA Intern
Nick Swanson	IDA Intern
Katie Kemp	Member of the public
Dan (last name unknown)	Member of the public
Jonathan Epstein	Buffalo News
Greg Bacon	Jamestown Post Journal
Julia Ciesla-Hanley	WRFA 107.9

The attached resolution no. 07-23-24-03 was offered by Tom Harmon, seconded by Kevin Muldowney:

Resolution No. 07-23-24-03

RESOLUTION TAKING PRELIMINARY ACTION TOWARD THE ACQUISITION AND STRAIGHT LEASING OF A CERTAIN PROJECT FOR 401 CENTRAL, LLC AND/OR ITS AFFILIATES AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PRELIMINARY 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, 401 CENTRAL, LLC, a limited liability company duly organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of 401 Central, LLC and/or an entity or entities formed or to be formed on behalf of any of the foregoing (collectively, 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 9,945 square foot parcel of land known as 401-403 Central Avenue and Lark Street, City of Dunkirk, County of Chautauqua, New York (Tax Map Parcel ID Nos. 79.14-7-9 and 79.14-7-8) (the “Land”), (2) the renovation of the existing approximately 10,855 square foot building on the Land, together with related improvements to the Land (collectively, the “Building”), and (3) the acquisition of certain furniture, fixtures, machinery, equipment and building materials necessary for the completion thereof (collectively, the “Equipment” and together with the Land and the Building, collectively, the “Project Facility”), all of the foregoing for adaptive reuse by the Applicant as a mixed-use facility consisting of 5 residential rental units in approximately 6,500 square feet of space and approximately 1,800-2,800 square feet of commercial space; (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 sales and use taxes, mortgage recording taxes and real property 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 portion of the Financial Assistance consisting of an exemption from real property taxes, if granted, will not represent a deviation from the Agency’s uniform tax exemption policy and guidelines with respect to the making of payments in lieu of real property taxes; 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 preliminary agreement (the “Preliminary 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, renovation, 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 Preliminary 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 Preliminary 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 Preliminary Agreement and the Future Resolution.

Section 6. The form, terms and substance of the Preliminary 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 Preliminary 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 Preliminary Agreement.

Section 7. From and after the execution and delivery of the Preliminary 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 Preliminary 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:

Gary Henry	AYE
Bradley Walters	AYE
Sagan Sheffield-Smith	ABSENT
Dan Heitzenrater	AYE
Steven Thorpe	AYE
Kevin Muldowney	AYE
Amy Harding	AYE
Daniel DeMarte	AYE
Tom Harmon	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 July 23, 2024 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) there was a quorum of the members of the Agency present throughout said meeting; and (E) 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.

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 23rd day of July, 2024.



[Assistant] Secretary



[Vice] Chairman

PRELIMINARY AGREEMENT

THIS PRELIMINARY AGREEMENT (this "Preliminary Agreement") dated as of the 23rd day of July, 2024, 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 401 CENTRAL, LLC, a limited liability company duly organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of 401 Central, LLC and/or an entity or entities formed or to be formed on behalf of any of the foregoing (collectively, 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, 401 CENTRAL, LLC, a limited liability company duly organized and existing under the laws of the State of New York, on behalf of itself and/or the principals of 401 Central, LLC and/or an entity or entities formed or to be formed on behalf of any of the foregoing (collectively, 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 9,945 square foot parcel of land known as 401-403 Central Avenue and Lark Street, City of Dunkirk, County of Chautauqua, New York (Tax Map Parcel ID Nos. 79.14-7-9 and 79.14-7-8) (the "Land"), (2) the renovation of the existing approximately 10,855 square foot building on the Land, together with related improvements to the Land (collectively, the "Building"), and (3) the acquisition of certain furniture, fixtures, machinery, equipment and building materials necessary for the completion thereof (collectively, the "Equipment" and together with the Land and the Building, collectively, the "Project Facility"), all of the foregoing for adaptive reuse by the Applicant as a mixed-use facility consisting of 5 residential rental units in approximately 6,500 square feet of space and approximately 1,800-2,800 square feet of commercial space; (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 sales and use taxes, mortgage recording taxes and real property 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 held a meeting on July 23, 2024 and approved a resolution (the “Preliminary Resolution”) requiring the execution and delivery of this Preliminary Agreement by the Applicant and authorizing its execution and delivery by the Agency, and authorizing the Agency to pursue preliminary action toward the undertaking 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, the employment reasonably expected to be created by the acquisition, renovation, installation, equipping and operation of the Project Facility, and an analysis of how the Proposed Project would contribute to the realization of the public purposes of promoting job opportunities in the County of Chautauqua (the “County”), and the prevention of economic deterioration in 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 promoting job opportunities and 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 Preliminary Agreement have been duly authorized by all necessary company action, and this Preliminary 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 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 Proposed Project. For purposes of this representation, retail sales shall mean: (A) 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 (B) 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, any related designee or any other occupant of the Project Facility 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, any related designee or any other occupant of the Project Facility located in the State of New York. 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 Preliminary 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 City of Dunkirk and is not located within the boundaries of any other incorporated village or city. The Project Facility is located entirely within the boundaries of the City of Dunkirk School District

(J) The Applicant plans to invest a total of at least \$2,406,000 in the Project Facility.

Section 1.02. This Preliminary Agreement does 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 agrees to review the Application and to proceed with its consideration of the Proposed Project and the Financial Assistance relating to the Proposed Project, subject to the conditions contained in this Preliminary 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 or reimburse the Agency for all expenses incurred by the Agency in connection with the Proposed Project (including, without limitation, counsel fees and disbursements).

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) review, 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, and (B) any further action taken by the Agency with respect to the Application or 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 Preliminary Agreement, and that each of them may (but shall not be obligated to) enforce the provisions of Section 3.01 of this Preliminary 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 Preliminary 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 Preliminary Agreement is intended to facilitate discussion regarding the Proposed Project, and neither this Preliminary 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 Preliminary 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) one (1) day after deposit with Federal Express or other nationally recognized overnight courier for 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:

401 Central, LLC
3083 William Street
Buffalo, NY 14227
Attn: Gary Crewson

(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 Preliminary 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 Preliminary 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 Preliminary Agreement as of the date and year first written above.

401 CENTRAL, LLC

COUNTY OF CHAUTAUQUA INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Name: Gary Crewson
Title: Managing Member

By: _____
Name: Richard E. Dixon
Title: Chief Financial Officer

**BALL HILL WIND ENERGY, LLC -
Deviation Approval Resolution**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on July 23, 2024, at 10:30 A.M., local time, at the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”).

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

PRESENT:

Gary Henry	Chairman
Bradley Walters	Vice Chairman
Daniel Heitzenrater	Secretary
Steven Thorpe	Member
Amy Harding	Member
Daniel DeMarte	Member
Tom Harmon	Member
Kevin Muldowney	Member

NOT PRESENT:

Sagan Sheffield-Smith	Treasurer
-----------------------	-----------

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
Lisa Cole	Counsel
Kristine Morabito	IDA Staff
Rosie Strandburg	IDA Staff
Carol Rasmussen	IDA Staff
Kayla Strandburg	IDA Staff
Nate Aldrich	IDA Staff
Jeanette Lo Bello	IDA Staff
Jason Sample	IDA Staff
Crystal Erhard	IDA Staff
Paul Wendel	County Executive
Vince DeJoy	City of Dunkirk
Lee Crewson	401 Central LLC

**BALL HILL WIND ENERGY, LLC -
Deviation Approval Resolution**

Craig Marlatt	Peak Preconstruction
Gage Hayes	IDA Intern
Nick Swanson	IDA Intern
Katie Kemp	Member of the public
Dan (last name unknown)	Member of the public
Jonathan Epstein	Buffalo News
Greg Bacon	Jamestown Post Journal
Julia Ciesla-Hanley	WRFA 107.9

The attached resolution no. 07-23-24-04 was offered by Steven Thorpe, seconded by Dan Heitzenrater:

Resolution No. 07-23-24-04

RESOLUTION AUTHORIZING A DEVIATION FROM THE UNIFORM
TAX EXEMPTION POLICY OF THE COUNTY OF CHAUTAUQUA
INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT
TO A PROJECT FOR BALL HILL WIND ENERGY, LLC

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, BALL HILL WIND ENERGY, LLC, a limited liability company existing under the laws of the State of New York (the “Applicant”), previously presented an application (the “Application”) and a supplemental application (the “Supplemental Application”) to the Agency, which Application and Supplemental Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A) (1) the acquisition of an interest in approximately 9,715 acres of land located in the towns of Villenova and Hanover, County of Chautauqua, New York (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) approximately 13.0 miles of gravel access roads, (ii) approximately 19.8 miles of underground medium voltage electrical collection lines, (iii) approximately 5.7 miles of overhead 115 kV electric transmission line on monopole transmission poles, (iv) an electrical collection substation on a site of up to 5.0 acres (with up to 1.3 acres of that impacted by construction of Project improvements), (v) an electrical interconnection substation on a site of up to 8.57 acres (with up to 4.0 acres of that impacted by construction of Project improvements), (vi) an approximately 5 acre operations and maintenance building site, (vii) an approximately 7,000 square foot operations and maintenance building, and (viii) approximately 20 acres of construction laydown area on the Land (collectively, the “Improvements”), and a system of gravel access roads, parking, landscaping and related

improvements to the Land (together with the Improvements, collectively, the “Facility”), and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment, including approximately twenty-nine (29) wind energy turbines that will each be up to 3.45 megawatts (“MW”) (the “Equipment”), all of the foregoing for use by the Applicant as a wind-powered electric generating facility (collectively, the “Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes, mortgage recording taxes and real property taxes (but not including special assessments and ad valorem levies) (collectively, the “Financial Assistance”); and (C) the lease of the Project Facility by the Applicant to the Agency and the sublease of the Project Facility by the Agency to the Applicant; and

WHEREAS, in accordance with Section 859-a of the Act, approval of the Project was 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 SEQRA (as hereinafter defined), and all other statutes, codes, laws, rules and regulations of any governmental authority having jurisdiction over the Project (collectively, “Applicable Laws”); and

WHEREAS, the Administrative Director of the Agency (A) caused notice of public hearings 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 September 28, 2016 to the chief executive officer of the County of Chautauqua, New York (the “County”) and of each other affected tax jurisdiction within which the Project Facility is or is to be located; (B) caused notice of the Public Hearings to be published on September 28, 2016 in the *Observer*, a newspaper of general circulation available to residents of the Town of Hanover, the Town of Villenova and the County; (C) conducted the Public Hearing for the Town of Hanover on October 11, at 10:00 a.m. local time, at the Town of Hanover Town Court Room, 68 Hanover Street, Silver Creek, New York 14136; (D) conducted the Public Hearing for the Town of Villenova on October 11, at 1:00 p.m. at Hamlet United Methodist Church, 1119 Route 83, South Dayton, New York 14138; and (E) prepared a report of the Public Hearings (the “Report”) which fairly summarizes the views presented at the Public Hearings and distributed the Report to the members of the Agency; and

WHEREAS, the Administrative Director of the Agency (A) caused notice of a meeting of the Agency (the “Original IDA Meeting”) with respect to the proposed deviation from the Agency’s uniform tax exemption policy and guidelines to be mailed on September 28, 2016 to the chief executive officer of each affected tax jurisdiction; and (B) conducted the Original IDA Meeting on October 25, 2016 and reviewed and responded to any comments or correspondence received from the affected tax jurisdictions at or before the Original IDA Meeting regarding the

proposed deviation from the Agency’s uniform tax exemption policy and approved the proposed deviation prior to the adoption of this Resolution; and (C) passed a resolution at the Original IDA Meeting authorizing a deviation from the Agency’s uniform tax exemption policy with respect to the Project; and

WHEREAS, the Agency has lawfully performed, completed and complied with all of its obligations in connection with the Project 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 (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), including, but not limited to, issuing its Statement of Findings with Determination of Significance for the Project; and

WHEREAS, by resolution adopted by the members of the Agency on December 9, 2016 (the “Authorizing Resolution”), the Agency determined to proceed with the Project, to grant the Financial Assistance and to enter into the “straight lease transaction” (as such quoted term is defined in the Act) contemplated by the Lease Agreement (as defined below) and the other Transaction Documents (as defined in the Lease Agreement); and

WHEREAS, the Agency appointed the Applicant as agent of the Agency to undertake the construction, installation and equipping of the Project Facility, all pursuant to the terms and conditions set forth in the Agency Lease Agreement dated as of December 22, 2016 between the Applicant and the Agency (the “Lease Agreement”), and the other Transaction Documents (as defined in the Lease Agreement); and

WHEREAS, pursuant to a request letter submitted to the Agency by the Applicant on or about December 3, 2020 (as amended, the “Amended Application”), the Applicant has requested that the Agency consider granting certain additional financial assistance with respect to the Project in the form of an amended exemption from real property taxes to reflect a decrease in the number of turbines from 29 to 25 and an increase in the output of the Project Facility from approximately 100 megawatts to approximately 107.5 megawatts (collectively, the “Additional Financial Assistance”); and

WHEREAS, any approval of the granting of the Financial Assistance is contingent upon, inter alia, a determination by the members that (i) the applicable public hearing and notice requirements and other procedural requirements contained in the Act relating to the Additional Financial Assistance have been satisfied, and (ii) the granting of the Financial Assistance is and will be in compliance with all 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 “Supplemental Public Hearing”) to hear all persons interested in the granting of the Additional Financial Assistance contemplated by the Agency, to be mailed by letters dated July 1, 2024 to the chief executive

officer of 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 Amended Application on the Agency’s website; (B) caused notices of the Supplemental Public Hearing to be published on July 2, 2024 in the *Observer*, a newspaper of general circulation available to residents of the County; (C) caused the Supplemental Public Hearing to be conducted on July 16, 2024, (i) at 9:00 a.m., local time, at Hanover Town Court, 68 Hanover Street, Silver Creek, Town of Hanover, County of Chautauqua, New York, and (ii) at 11:00 a.m., local time, at Town of Villenova Town Hall, 1094 Butcher Road, South Dayton, Town of Villenova, County of Chautauqua, New York; (D) caused the Supplemental Public Hearing to be streamed on the Agency’s website in real-time and a recording of the Supplemental 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 Supplemental Public Hearing to be prepared which fairly summarizes the views presented at the Supplemental Public Hearing and collected written comments from the public (collectively, the “Supplemental Report”) and distributed the Supplemental Report to the members of the Agency; and

WHEREAS, the Amended Application states that the Applicant is seeking an exemption from real property taxes with respect to the Project Facility that constitutes a deviation from the Agency’s Uniform Tax Exemption Policy (the “Tax Exemption Policy”); and

WHEREAS, in accordance with Section 874(4) of the Act, (A) the Administrative Director/CEO of the Agency caused a letter dated July 1, 2024 (the “Deviation Notice”) to be mailed to the chief executive officer of each affected tax jurisdiction and such other persons as are required by applicable law, informing said individuals that the Agency would, at its meeting on July 1, 2024 (the “IDA Meeting”), consider the proposed deviation from the Uniform Tax Exemption Policy set forth in the Deviation Notice; 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 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 Deviation Notice (copies of which are attached hereto as Exhibit A) because the Property Tax Exemption (as defined in the Pilot Deviation Notice Letters) is to increase the output of the Project Facility. 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 consent resolution with respect to the granting of the Additional Financial Assistance (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 one (1) or more amendments to Payment in Lieu of Taxes Agreements providing for, among other things, the making of payments in lieu of property taxes consistent with the Deviation Notice, and (B) file one (1) or more amended applications for real property tax exemption with the appropriate assessor(s) with respect to the Project Facility.

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:

Gary Henry	AYE
Bradley Walters	AYE
Sagan Sheffield-Smith	ABSENT
Dan Heitzenrater	AYE
Steven Thorpe	AYE
Kevin Muldowney	AYE
Daniel DeMarte	AYE
Amy Harding	AYE
Tom Harmon	AYE

The foregoing resolution was thereupon declared duly adopted.

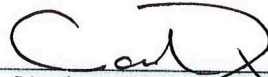
STATE OF NEW YORK)
) SS.:
COUNTY OF CHAUTAUQUA)

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 July 23, 2024 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) there was a quorum of the members of the Agency present throughout said meeting; and (E) 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.

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 23rd day of July, 2024.



[Assistant] Secretary



[Vice] Chairman

EXHIBIT A

Deviation Notice

See Attached



County of Chautauqua Industrial Development Agency



ChooseCHQ.com

Board of Directors

Gary Henry
Chairman
Owner
Fancher Chair Co., Inc.

Tom Harmon
Member
PED Chair

Brad Walters
Vice Chairman
Executive Director
Southern Tier Builders
Association

Sagan Sheffield-Smith
Treasurer
Chief Financial Officer
Double A Vineyards

Dan Heitzenrater
Secretary
President & CEO
Chautauqua County
Chamber of Commerce

Steven Thorpe
Member
President
Sheet Metal Workers
Local Union No 112

Daniel DeMarte
Member
President
Jamestown Community
College

Amy Harding
Member
Vice President
Lake Shore Savings Bank

Kevin Muldowney
Member
President
Muldowney
Development

July 1, 2024

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED
AND FIRST CLASS MAIL

Yvonne Park, Town Supervisor
Town of Villenova
1094 Butcher Road
South Dayton, NY 14138
Julie Goodway, Town Clerk
Town of Villenova
1094 Butcher Road
South Dayton, NY 14138
Dr. John O’Connor, Superintendent
Forestville Central School Dist.
12 Water Street
Forestville, NY 14062

Kristine Irwin, District Clerk
Forestville Central School Dist.
12 Water Street
Forestville, NY 14062

Amy Drozdziel, School Board President
Forestville Central School Dist.
12 Water Street
Forestville, NY 14062

The Observer
15 West 2nd Street
Jamestown, NY 14701

Shanda DuClon, Superintendent
Pine Valley Central School District
7755 Rt. 83
South Dayton, NY 14138
Krisite Ling, District Clerk
Pine Valley Central School District
7755 Rt. 83
South Dayton, NY 14138

Jeffrey Chase, School Board President
Pine Valley Central School District
7755 Rt. 83
South Dayton, NY 14138

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

**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 July 23, 2024 at 10:30 a.m., local time, at 201 West Third Street, Jamestown, County of Chautauqua, New York 14701, the Agency will consider whether to approve certain additional “financial assistance” by amending a certain Payment in Lieu of Taxes Agreement dated as of December 22, 2016 (the “PILOT Agreement”) between the Agency and Ball Hill Wind Energy, LLC, a limited liability company existing under the laws of the State of New York (the “Applicant”), which, if approved, would constitute a deviation from the Agency’s Uniform Tax Exemption Policy and Guidelines (the “Policy”) with respect to the payment of real property taxes.



The Applicant previously presented an application (the “Application”) and a supplemental application (the “Supplemental Application”) to the Agency, which Application and Supplemental Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A) (1) the acquisition of an interest in approximately 9,715 acres of land located in the towns of Villenova and Hanover, County of Chautauqua, New York (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) approximately 13.0 miles of gravel access roads, (ii) approximately 19.8 miles of underground medium voltage electrical collection lines, (iii) approximately 5.7 miles of overhead 115 kV electric transmission line on monopole transmission poles, (iv) an electrical collection substation on a site of up to 5.0 acres (with up to 1.3 acres of that impacted by construction of Project improvements), (v) an electrical interconnection substation on a site of up to 8.57 acres (with up to 4.0 acres of that impacted by construction of Project improvements), (vi) an approximately 5 acre operations and maintenance building site, (vii) an approximately 7,000 square foot operations and maintenance building, and (viii) approximately 20 acres of construction laydown area on the Land (collectively, the “Improvements”), and a system of gravel access roads, parking, landscaping and related improvements to the Land (together with the Improvements, collectively, the “Facility”), and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment, including approximately twenty-nine (29) wind energy turbines that will each be up to 3.45 megawatts (“MW”) (the “Equipment”), all of the foregoing for use by the Applicant as a wind-powered electric generating facility (collectively, the “Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes, mortgage recording taxes and real property taxes (but not including special assessments and ad valorem levies) (collectively, the “Financial Assistance”); and (C) the lease of the Project Facility by the Applicant to the Agency and the sublease of the Project Facility by the Agency to the Applicant.

By resolution adopted by the members of the Agency on December 9, 2016 (the “Authorizing Resolution”), the Agency determined to proceed with the Project, to grant the Financial Assistance and to enter into the “straight lease transaction” (as such quoted term is defined in the Act) contemplated by that certain Agency Lease Agreement dated as of December 22, 2016 between the Agency and the Applicant.

Pursuant to a request letter submitted to the Agency by the Applicant on or about December 3, 2020 (as amended, the “Amended Application”), the Applicant has requested that the Agency consider granting certain additional financial assistance with respect to the Project in the form of an amended exemption from real property taxes to reflect a decrease in the number of turbines from 29 to 25 and an increase in the output of the Project Facility from approximately 100 megawatts to approximately 107.5 megawatts (collectively, the “Amended Property Tax Exemption”) as follows:

PILOT Payments: Annual PILOT Payment. \$330,923.00 (not to exceed 107.5 MW), with such payment to be in lieu of tax payments with respect to all Project improvements (the “**PILOT Payment**”).

Annual Escalator. The payment due on July 31, 2025 and subsequent PILOT Payments would be increased annually by two percent (2%) over the prior year’s PILOT Payment (the “**Annual Escalator**”).

PILOT Payment Allocation and Split. The PILOT Payment will be allocated to the involved tax jurisdictions for improvements located in the Town of Villenova and to the involved tax jurisdictions for improvements located in the Town of Hanover in proportion to the relative cost of the Project assets located in each town.

Allocated PILOT Payment amounts will be split between the involved tax jurisdictions according to split percentages provided by the Agency.


PILOT Payment Timing and Due Dates. Each PILOT Payment shall be due on or before July 31 during the Term and shall apply to the Tax Year tied to the assessments becoming final that July. For example, a July 2024 PILOT Payment (if applicable) would cover the 2024-2025 School Districts' fiscal years and the 2025 Towns' and County fiscal years. If any PILOT Payment is not made on or before the due date, such payment shall be delinquent and the Company shall pay, for the benefit of the applicable Taxing Entity, a late charge equal to five percent (5%) of the payment. For each month, or part thereof, that the payment is delinquent beyond the first month, the Company shall pay interest thereon plus an additional late payment penalty equal to one percent (1%) per month of the total amount payable.

The Amended Property Tax Exemption, if ratified by the Agency, would constitute a deviation from the Policy. The reason for the deviation is that the Amended Property Tax Exemption, if approved by the Agency, is increase the output of the Project Facility. 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.

Subject to applicable law, 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. For additional assistance, contact the Agency at (716) 661-8900.

COUNTY OF CHAUTAUQUA
INDUSTRIAL DEVELOPMENT AGENCY

By: 
Richard E. Dixon
Chief Financial Officer



Board of Directors

Gary Henry
Chairman
Owner
Fancher Chair Co., Inc.

Tom Harmon
Member
PED Chair

Brad Walters
Vice Chairman
Executive Director
Southern Tier Builders
Association

Sagan Sheffield-Smith
Treasurer
Chief Financial Officer
Double A Vineyards

Dan Heitzenrater
Secretary
President & CEO
Chautauqua County
Chamber of Commerce

Steven Thorpe
Member
President
Sheet Metal Workers
Local Union No 112

Daniel DeMarte
Member
President
Jamestown Community
College

Amy Harding
Member
Vice President
Lake Shore Savings Bank

Kevin Muldowney
Member
President
Muldowney
Development

July 1, 2024

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED
AND FIRST CLASS MAIL

Dr. John O’Connor, Superintendent
Forestville Central School Dist.
12 Water Street
Forestville, NY 14062

Elizabeth VanCheri, Town Clerk
Town of Hanover
68 Hanover St.
Silver Creek, NY 14136
Kristine Irwin, District Clerk
Forestville Central School Dist.
12 Water Street
Forestville, NY 14062

Louis Pelletter, Town Supervisor
Town of Hanover
68 Hanover St.
Silver Creek, NY 14136

Amy Drozdziel, School Board President
Forestville Central School Dist.
12 Water Street
Forestville, NY 14062

The Observer
15 West 2nd Street
Jamestown, NY 14701

Shanda DuClon, Superintendent
Pine Valley Central School District
7755 Rt. 83
South Dayton, NY 14138
Krisite Ling, District Clerk
Pine Valley Central School District
7755 Rt. 83
South Dayton, NY 14138

Jeffrey Chase, School Board President
Pine Valley Central School District
7755 Rt. 83
South Dayton, NY 14138

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

**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 July 23, 2024 at 10:30 a.m., local time, at 201 West Third Street, Jamestown, County of Chautauqua, New York 14701, the Agency will consider whether to approve certain additional “financial assistance” by amending a certain Payment in Lieu of Taxes Agreement dated as of December 22, 2016 (the “PILOT Agreement”) between the Agency and Ball Hill Wind Energy, LLC, a limited liability company existing under the laws of the State of New York (the “Applicant”), which, if



approved, would constitute a deviation from the Agency’s Uniform Tax Exemption Policy and Guidelines (the “Policy”) with respect to the payment of real property taxes.

The Applicant previously presented an application (the “Application”) and a supplemental application (the “Supplemental Application”) to the Agency, which Application and Supplemental Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A) (1) the acquisition of an interest in approximately 9,715 acres of land located in the towns of Villenova and Hanover, County of Chautauqua, New York (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) approximately 13.0 miles of gravel access roads, (ii) approximately 19.8 miles of underground medium voltage electrical collection lines, (iii) approximately 5.7 miles of overhead 115 kV electric transmission line on monopole transmission poles, (iv) an electrical collection substation on a site of up to 5.0 acres (with up to 1.3 acres of that impacted by construction of Project improvements), (v) an electrical interconnection substation on a site of up to 8.57 acres (with up to 4.0 acres of that impacted by construction of Project improvements), (vi) an approximately 5 acre operations and maintenance building site, (vii) an approximately 7,000 square foot operations and maintenance building, and (viii) approximately 20 acres of construction laydown area on the Land (collectively, the “Improvements”), and a system of gravel access roads, parking, landscaping and related improvements to the Land (together with the Improvements, collectively, the “Facility”), and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment, including approximately twenty-nine (29) wind energy turbines that will each be up to 3.45 megawatts (“MW”) (the “Equipment”), all of the foregoing for use by the Applicant as a wind-powered electric generating facility (collectively, the “Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes, mortgage recording taxes and real property taxes (but not including special assessments and ad valorem levies) (collectively, the “Financial Assistance”); and (C) the lease of the Project Facility by the Applicant to the Agency and the sublease of the Project Facility by the Agency to the Applicant.

By resolution adopted by the members of the Agency on December 9, 2016 (the “Authorizing Resolution”), the Agency determined to proceed with the Project, to grant the Financial Assistance and to enter into the “straight lease transaction” (as such quoted term is defined in the Act) contemplated by that certain Agency Lease Agreement dated as of December 22, 2016 between the Agency and the Applicant.

Pursuant to a request letter submitted to the Agency by the Applicant on or about December 3, 2020 (as amended, the “Amended Application”), the Applicant has requested that the Agency consider granting certain additional financial assistance with respect to the Project in the form of an amended exemption from real property taxes to reflect a decrease in the number of turbines from 29 to 25 and an increase in the output of the Project Facility from approximately 100 megawatts to approximately 107.5 megawatts (collectively, the “Amended Property Tax Exemption”) as follows:

PILOT Payments: Annual PILOT Payment. \$330,923.00 (not to exceed 107.5 MW), with such payment to be in lieu of tax payments with respect to all Project improvements (the “**PILOT Payment**”).

Annual Escalator. The payment due on July 31, 2025 and subsequent PILOT Payments would be increased annually by two percent (2%) over the prior year’s PILOT Payment (the “**Annual Escalator**”).

PILOT Payment Allocation and Split. The PILOT Payment will be allocated to the involved tax jurisdictions for improvements located in the Town of Villenova and to the involved tax jurisdictions for improvements located in the Town of Hanover in proportion to the relative cost of the Project assets located in each town. Allocated PILOT Payment amounts will be split between the involved tax jurisdictions according to split percentages provided by the Agency.

PILOT Payment Timing and Due Dates. Each PILOT Payment shall be due on or before July 31 during the Term and shall apply to the Tax Year tied to the assessments becoming final that July. For example, a July 2024 PILOT Payment (if applicable) would cover the 2024-2025 School Districts' fiscal years and the 2025 Towns' and County fiscal years. If any PILOT Payment is not made on or before the due date, such payment shall be delinquent and the Company shall pay, for the benefit of the applicable Taxing Entity, a late charge equal to five percent (5%) of the payment. For each month, or part thereof, that the payment is delinquent beyond the first month, the Company shall pay interest thereon plus an additional late payment penalty equal to one percent (1%) per month of the total amount payable.

The Amended Property Tax Exemption, if ratified by the Agency, would constitute a deviation from the Policy. The reason for the deviation is that the Amended Property Tax Exemption, if approved by the Agency, is increase the output of the Project Facility. 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.

Subject to applicable law, 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. 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

BALL HILL WIND ENERGY, LLC - Consent Resolution

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on July 23, 2024, at 10:30 A.M., local time, at the offices of the Agency located at 201 West 3rd Street, Jamestown, County of Chautauqua, New York (the “IDA Office”).

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

PRESENT:

Gary Henry	Chairman
Bradley Walters	Vice Chairman
Daniel Heitzenrater	Secretary
Steven Thorpe	Member
Amy Harding	Member
Daniel DeMarte	Member
Tom Harmon	Member
Kevin Muldowney	Member

NOT PRESENT:

Sagan Sheffield-Smith	Treasurer
-----------------------	-----------

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
Lisa Cole	Counsel
Kristine Morabito	IDA Staff
Rosie Strandburg	IDA Staff
Carol Rasmussen	IDA Staff
Kayla Strandburg	IDA Staff
Nate Aldrich	IDA Staff
Jeanette Lo Bello	IDA Staff
Jason Sample	IDA Staff
Crystal Erhard	IDA Staff
Paul Wendel	County Executive

Vince DeJoy	City of Dunkirk
Lee Crewson	401 Central LLC
Craig Marlatt	Peak Preconstruction
Gage Hayes	IDA Intern
Nick Swanson	IDA Intern
Katie Kemp	Member of the public
Dan (last name unknown)	Member of the public
Jonathan Epstein	Buffalo News
Greg Bacon	Jamestown Post Journal
Julia Ciesla-Hanley	WRFA 107.9

The attached resolution no. 07-23-24-05 was offered by Steven Thorpe, seconded by Dan Heitzenrater:

Resolution No. 07-23-24-05

RESOLUTION AUTHORIZING CERTAIN MATTERS IN CONNECTION
WITH A CERTAIN PROJECT FOR BALL HILL WIND ENERGY, LLC

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, BALL HILL WIND ENERGY, LLC, a limited liability company existing under the laws of the State of New York (the “Applicant”), previously presented an application (the “Application”) and a supplemental application (the “Supplemental Application”) to the Agency, which Application and Supplemental Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A) (1) the acquisition of an interest in approximately 9,715 acres of land located in the towns of Villenova and Hanover, County of Chautauqua, New York (collectively, the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) approximately 13.0 miles of gravel access roads, (ii) approximately 19.8 miles of underground medium voltage electrical collection lines, (iii) approximately 5.7 miles of overhead 115 kV electric transmission line on monopole transmission poles, (iv) an electrical collection substation on a site of up to 5.0 acres (with up to 1.3 acres of that impacted by construction of Project improvements), (v) an electrical interconnection substation on a site of up to 8.57 acres (with up to 4.0 acres of that impacted by construction of Project improvements), (vi) an approximately 5 acre operations and maintenance building site, (vii) an approximately 7,000 square foot operations and maintenance building, and (viii) approximately 20 acres of construction laydown area on the Land (collectively, the “Improvements”), and a system of gravel access roads, parking, landscaping and related improvements to the Land (together with the Improvements, collectively, the “Facility”), and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment, including approximately twenty-nine (29) wind energy turbines that will each be up to 4.3 megawatts (“MW”) (the “Equipment”), all of the foregoing for use by the Applicant as a wind-

powered electric generating facility (collectively, the “Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes, mortgage recording taxes and real property taxes (but not including special assessments and ad valorem levies) (collectively, the “Financial Assistance”); and (C) the lease of the Project Facility by the Applicant to the Agency and the sublease of the Project Facility by the Agency to the Applicant; and

WHEREAS, in accordance with Section 859-a of the Act, approval of the Project was 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 SEQRA (as hereinafter defined), and all other statutes, codes, laws, rules and regulations of any governmental authority having jurisdiction over the Project (collectively, “Applicable Laws”); and

WHEREAS, the Administrative Director of the Agency (A) caused notice of public hearings 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 September 28, 2016 to the chief executive officer of the County of Chautauqua, New York (the “County”) and of each other affected tax jurisdiction within which the Project Facility is or is to be located; (B) caused notice of the Public Hearings to be published on September 28, 2016 in the *Observer*, a newspaper of general circulation available to residents of the Town of Hanover, the Town of Villenova and the County; (C) conducted the Public Hearing for the Town of Hanover on October 11, at 10:00 a.m. local time, at the Town of Hanover Town Court Room, 68 Hanover Street, Silver Creek, New York 14136; (D) conducted the Public Hearing for the Town of Villenova on October 11, at 1:00 p.m. at Hamlet United Methodist Church, 1119 Route 83, South Dayton, New York 14138; and (E) prepared a report of the Public Hearings (the “Report”) which fairly summarizes the views presented at the Public Hearings and distributed the Report to the members of the Agency; and

WHEREAS, the Administrative Director of the Agency (A) caused notice of a meeting of the Agency (the “IDA Meeting”) with respect to the proposed deviation from the Agency’s uniform tax exemption policy and guidelines to be mailed on September 28, 2016 to the chief executive officer of each affected tax jurisdiction; and (B) conducted the IDA Meeting on October 25, 2016 and reviewed and responded to any comments or correspondence received from the affected tax jurisdictions at or before the IDA Meeting regarding the proposed deviation from the Agency’s uniform tax exemption policy and approved the proposed deviation prior to the adoption of this Resolution; and (C) passed a resolution at that IDA Meeting authorizing a deviation from the Agency’s uniform tax exemption policy with respect to the Project; and

WHEREAS, the Agency has lawfully performed, completed and complied with all of its obligations in connection with the Project 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 (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), including, but not limited to, issuing its Statement of Findings with Determination of Significance for the Project; and

WHEREAS, by resolution adopted by the members of the Agency on December 9, 2016 (the “Authorizing Resolution”), the Agency determined to proceed with the Project, to grant the Financial Assistance and to enter into the “straight lease transaction” (as such quoted term is defined in the Act) contemplated by the Lease Agreement (as defined below) and the other Transaction Documents (as defined in the Lease Agreement); and

WHEREAS, the Agency appointed the Applicant as agent of the Agency to undertake the construction, installation and equipping of the Project Facility, all pursuant to the terms and conditions set forth in the Agency Lease Agreement dated as of December 22, 2016 between the Applicant and the Agency (the “Lease Agreement”), and the other Transaction Documents (as defined in the Lease Agreement); and

WHEREAS, pursuant to a request letter submitted to the Agency by the Applicant on or about December 3, 2020 (as amended, the “Amended Application”), the Applicant has requested that the Agency consider granting certain additional financial assistance with respect to the Project in the form of an amended exemption from real property taxes to reflect a decrease in the number of turbines from 29 to 25 and an increase in the output of the Project Facility from approximately 100 megawatts to approximately 107.5 megawatts (collectively, the “Additional Financial Assistance”); and

WHEREAS, any approval of the granting of the Financial Assistance is contingent upon, inter alia, a determination by the members that (i) the applicable public hearing and notice requirements and other procedural requirements contained in the Act relating to the Additional Financial Assistance have been satisfied, and (ii) the granting of the Financial Assistance is and will be in compliance with all 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 “Supplemental Public Hearing”) to hear all persons interested in the granting of the Additional Financial Assistance contemplated by the Agency, to be mailed by letters dated July 1, 2024 to the chief executive officer of 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 Amended Application on the Agency’s website; (B) caused notices of the Supplemental Public Hearing to be published on July 2, 2024 in the *Observer*, a newspaper of general circulation available to residents of the County; (C) caused the Supplemental Public Hearing to be conducted on July 16, 2024, (i) at 9:00 a.m., local time, at Hanover Town Court, 68 Hanover Street, Silver Creek, Town of Hanover, County of Chautauqua, New York, and (ii) at 11:00 a.m., local time, at Town of Villenova Town Hall, 1094 Butcher Road, South Dayton, Town of Villenova, County of Chautauqua, New York; (D) caused the Supplemental Public

Hearing to be streamed on the Agency's website in real-time and a recording of the Supplemental 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 Supplemental Public Hearing to be prepared which fairly summarizes the views presented at the Supplemental Public Hearing and collected written comments from the public (collectively, the "Supplemental Report") and distributed the Supplemental Report to the members of the Agency; and

WHEREAS, the Amended Application states that the Applicant is seeking an exemption from real property taxes with respect to the Project Facility that constitutes a deviation from the Agency's Uniform Tax Exemption Policy (the "Tax Exemption Policy"); and

WHEREAS, in accordance with Section 874(4) of the Act, (A) the Administrative Director/CEO of the Agency caused a letter dated July 1, 2024 (the "Deviation Notice") to be mailed to the chief executive officer of each affected tax jurisdiction and such other persons as are required by applicable law, informing said individuals that the Agency would, at its meeting on July 23, 2024 (the "IDA Meeting"), consider the proposed deviation from the Uniform Tax Exemption Policy set forth in the Deviation Notice; 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; and

WHEREAS, the Agency now desires to make its determination to grant the Additional Financial Assistance, subject to the terms hereof;

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

Section 1. The Agency hereby ratifies, confirms and approves actions heretofore taken by the Chairman and the staff of the Agency with respect to the matters contemplated by this Resolution, including, without limitation, those actions required to ensure full compliance with the requirements of the Act, SEQRA, and all other Applicable Laws that relate thereto.

Section 2. The Agency hereby determines that the Applicant's request with respect to the previously approved and unchanged Project is a Type II Action pursuant to SEQRA involving "continuing agency administration" which does not involve "new programs or major reordering of priorities that may affect the environment" (6 NYCRR §617.5(c)(20)) and therefore no findings or determination of significance are required under SEQRA.

Section 3. The Agency has considered the request made by the Applicant and hereby finds and determines that granting the requested consent will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of Chautauqua County, New York, and improve their standard of living, and thereby serve the public purposes of the Act.

Section 4. The Agency has reviewed the Amended Application and the Supplemental Report, 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 Additional Financial Assistance.

Section 5. 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 requested consent.

Section 6. Having considered fully all comments received at or in connection with the Supplemental Public Hearing, including correspondence received subsequent to the Supplemental Public Hearing, the Agency hereby further determines to proceed with the granting of the Additional Financial Assistance, subject to the terms hereof. Accordingly, the Agency hereby approves the Applicant's request that the Agency grant an additional exemption from real property taxes as set forth in the Deviation Notice, which the Agency estimates has a value of \$2,682,000.

Section 7. The Chairman, Vice Chairman, Administrative Director/CEO and the Chief Financial Officer of the Agency are each hereby designated an Authorized Representative of the Agency and each of them is hereby authorized and directed, acting individually or jointly, to execute and deliver any and all consents, agreements, amendments, papers, instruments, opinions, certificates, affidavits and other documents required in connection with the consent and amendment authorized hereby (collectively, the "Amendment Documents"), and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, including, without limitation, taking any necessary action to obtain consent of any other person or party necessary with respect to execution, delivery and approval of the Amendment Documents, The execution and delivery of the Amendment Documents by any one of said officers shall be conclusive evidence of due authorization and approval. The execution and delivery of the Amendment Documents, being substantially in the forms used for prior similar transactions, are hereby authorized and approved and ratified.

Section 8. The authorizations set forth in this Resolution are subject to the conditions that the Applicant shall reimburse the Agency for all costs and expenses incurred by the Agency in connection with the transactions contemplated herein, including, without limitation, the Agency's consent and amendment fee in the amount of \$74,463 and all reasonable attorneys' fees and disbursements incurred by the Agency, including without limitation, the fees and expenses of Special Counsel, Phillips Lytle LLP.

Section 9. The Chairman, the Administrative Director/CEO and the Chief Financial Officer of the Agency are each hereby authorized to approve modifications to the terms approved herein which are not inconsistent with the intent and substance of this Resolution, such approval to be evidenced by the execution by any one of such officers of the Amendment Documents containing such modifications.

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:

Gary Henry	AYE
Bradley Walters	AYE
Sagan Sheffield-Smith	ABSENT
Dan Heitzenrater	AYE
Steven Thorpe	AYE
Kevin Muldowney	AYE
Amy Harding	AYE
Daniel DeMarte	AYE
Tom Harmon	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 July 23, 2024 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) there was a quorum of the members of the Agency present throughout said meeting; and (E) 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.

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 23rd day of July, 2024.

[Assistant] Secretary

[Vice] Chairman

(SEAL)



County of Chautauqua Industrial Development Agency

CHOOSE



ChooseCHQ.com

**RESOLUTION NUMBER 07-23-24-08
OF THE MEMBERS OF
COUNTY OF CHAUTAUQUA
INDUSTRIAL DEVELOPMENT AGENCY
CONSENTING TO THE ASSIGNMENT AND ASSUMPTION OF THE AL TECH LOANS TO
CHADWICK BAY MARINA, LLC AND PIER LLC**

July 23, 2024

Resolution of the County of Chautauqua Industrial Development Agency (“CCIDA”) consenting to the assignment and assumption of the Chadwick Bay Marina/Pier LLC and Pier LLC AL Tech Loans in the original amounts of \$290,000.00 and \$216,000.00 to Triple S Marina, LLC.

WHEREAS, on July 13, 2016, Chadwick Bay Marina and Pier LLC (“Chadwick”) entered into a County of Chautauqua Industrial Development Agency AL Tech Loan for business or commercial purposes. The loan is in the amount of \$290,000.00. The loan term is for 15-years at 4.00% interest (the “Chadwick Loan”) with principal and interest payments made monthly; and

WHEREAS, on August 31, 2017, Pier LLC (“Pier”) entered into a County of Chautauqua Industrial Development Agency AL Tech Loan for business or commercial purposes. The loan is in the amount of \$216,000.00. The loan term is for 15-years at 4.00% interest (the “Pier Loan”) with principal and interest payments made monthly; and

WHEREAS, Peter T. Smith (“Smith”) purchased 100% of the interest of Charles K. Pringle, III in Chadwick Bay Marina/Pier LLC and Pier LLC and assumed all obligations of the Chadwick Loan and Pier Loan (“Loans”); and

WHEREAS, Triple S Marina, LLC (“Triple S”) will purchased 100% of the interest of Smith in Chadwick Bay Marina/Pier LLC and Pier LLC; and

WHEREAS, Triple S, Smith, Chadwick and Pier have requested that the CCIDA consent to such transfer, and the assignment and assumption by Triple S of all of Smith’s obligations with regard thereto; and

WHEREAS, the CCIDA has been presented with request from Triple S for the approval of the assignment and assumption of the Loan documents upon the same terms and collateral; and

WHEREAS, the loan is currently, and shall continue to be secured by (i) a subordinate lien mortgage position on the real estate located at 18 Lake Shore Drive, Dunkirk, New York, 14048 (79.01-1-27 and 28), 24

Lake Shore Drive West, Dunkirk, New York, 14048 (79.01-1-25 and 26.2) and 30 Central Avenue, Dunkirk, New York 14048 (79.11-1-7), (ii) a subordinate lien assignment of rents, (iii) a subordinate lien position on all business assets including, but not limited to, furniture, fixtures, machinery, equipment, inventory, and accounts receivable; and

WHEREAS, the loan shall be additionally secured by the personal guarantees of Alan Steinberg and Steve St. George; and

WHEREAS, Life Insurance Assignment for Alan Steinberg has been waived; and

WHEREAS, Life Insurance Assignment for Steve St. George has been waived; and

WHEREAS, no additional “Financial Assistance” is being requested by Triple S or Smith with respect to the transactions contemplated by this Resolution; and

WHEREAS, the CCIDA is willing to accommodate Triple S’s requests, as provided in this Resolution; and

WHEREAS, to accomplish the foregoing an assignment and assumption agreement (“Assignment”) shall be signed by Triple S and Smith, and shall be consented to by the CCIDA; and

WHEREAS, Triple S shall maintain fire and hazard insurance on all company 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 appraisals for the property must be received prior to the loan closing; and

WHEREAS, commitment and financing documents of other lenders are to be satisfactory to the CCIDA; and

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

Section 1. The CCIDA has considered the requests made by the Triple S and hereby finds and determines that the requested consents by the CCIDA will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of Chautauqua County, New York, and improve their standard of living, and thereby serve the public purposes of the Act.

Section 2. No additional “Financial Assistance” is being requested by Triple S or Smith with respect to the transactions contemplated by this Resolution and therefore no public hearing of the CCIDA is required pursuant to Section 859-a of the Act.

Section 3. The CCIDA hereby ratifies, confirms and approves all actions heretofore taken by the Administrative Director and the staff of the CCIDA with respect to the matters contemplated by this Resolution.


Section 4. The execution and delivery of the Assignment, being in a form acceptable to the Administrative Director upon the advice of counsel to the CCIDA, are hereby authorized and approved. The Chief Financial Officer, Chairman, Vice Chairman and Administrative Director, acting individually or jointly, are hereby authorized to execute, acknowledge and deliver the Assignment, and the Secretary, Assistant Secretary and Administrative Director of the CCIDA are each hereby authorized to affix the seal of the CCIDA thereon, if required, and attest the same.

Section 5. The Chief Financial Officer, Chairman, Vice Chairman and Administrative Director of the CCIDA are each hereby designated an Authorized Representative of the CCIDA and each of them is hereby

authorized and directed, acting individually or jointly, to execute and deliver any and all other consents, papers, instruments, opinions, certificates, tax certificates, tax filings, affidavits and other documents (collectively, the "Consent Documents") and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution.

Section 6. The CCIDA hereby authorizes the Chief Financial Officer, Chairman, Vice Chairman and Administrative Director of the CCIDA, acting individually or jointly, to approve modifications to the terms approved hereby which are not inconsistent with the intent and substance of this Resolution.

Section 7. This Resolution shall take effect immediately.

By  Chairman
Date 7/23/27