

**401 Central, LLC -  
Authorizing Resolution**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on August 27, 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
Sagan Sheffield-Smith	Treasurer
Daniel Heitzenrater	Secretary
Amy Harding	Member
Daniel DeMarte	Member
Tom Harmon	Member
Kevin Muldowney	Member

NOT PRESENT:

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Mark Geise	Administrative Director/CEO
Richard E. Dixon	Chief Financial Officer
Milan K. Tyler, Esq.	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
Lee Crewson	401 Central LLC
Donnie Sheehan	Granite Source Power
Greg Bacon	Jamestown Post Journal
Julia Ciesla-Hanley	WRFA 107.9

**401 Central, LLC -  
Authorizing Resolution**

The attached resolution no. 08-27-24-01 was offered by Brad Walters, seconded by Kevin Muldowney:

Resolution No. 08-27-24-01

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

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 71 of the 1972 Laws of New York, as amended, constituting Section 895-h of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

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

WHEREAS, 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 A; 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 August 8, 2024 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 August 8, 2024 in *The Observer*, a newspaper of general circulation available to residents of the County; (C) caused the Public Hearing to be conducted on August 21, 2024, at 10:00 a.m., local time, at the Center for Innovation and Economic Development, 214 Central Avenue, City of Dunkirk, 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 New York Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (“NYSDEC”), being 6 N.Y.C.R.R. Part 617, et. seq., as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination whether to undertake the Project; and

WHEREAS, pursuant to SEQRA, to aid the Agency in determining whether the Project may have a significant adverse impact upon the environment, the Agency received and reviewed: (1) the Application, and; (2) Part 1 of a Short Environmental Assessment Form provided by the Applicant (the “EAF”) (collectively 1 and 2, the “Environmental Information”); and

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

WHEREAS, the Agency has determined the Project is a Type II Action pursuant to SEQRA because it involves interior renovation and rehabilitation of an existing building with use and occupancy by a type of use permitted within the zoning district occupied by the Land and will not expand the footprint of the Project Facility nor increase or substantially alter environmental impacts associated with the Land and does not exceed any threshold that would make it a Type I Action; and

WHEREAS, the Project would constitute an “Adaptive Re-Use Project” within the meaning of the Agency’s Uniform Tax Exemption Policy and Guidelines (the “UTEP”) and, therefore, the granting of an exemption from real property taxes for a period of fifteen (15) years in accordance with the schedule for such projects set forth in the UTEP would not constitute a deviation under the UTEP; and

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

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

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

Section 1. Based upon the Agency’s review of the Environmental Information, the Agency has made the following findings:

(a) The Project is a Type II action under SEQRA, precluded from further environmental review, because it consists of the “maintenance or repair involving no substantial changes in an existing structure or facility”; “replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes”; “reuse of a residential or commercial structure, or of a structure containing mixed residential and commercial uses, where the residential or commercial use is a permitted use under the applicable zoning law or ordinance”; and the “purchase or sale of furnishings, equipment or supplies, including surplus government property” and does not meet or exceed any threshold for a Type I action.

(b) More specifically, the Project involves interior renovation and rehabilitation of an existing building with use and occupancy by a type of use permitted within the zoning district occupied by the Land. The Project will not expand the footprint of the Project Facility nor increase or substantially alter environmental impacts associated with the Land.

Section 2. In accordance with Section 859-a of the Act, the Agency has prepared a written cost-benefit analysis with respect to the Project and the granting of the Financial Assistance (the “Analysis”). The Agency has reviewed the Application, the Report and the Analysis, and, based upon the representations made by the Applicant to the Agency and information obtained by the Agency, the Agency has reviewed and assessed all material information necessary to afford a reasonable basis for the Agency to make a determination to approve the Financial Assistance. In addition, the Agency hereby makes the following findings and determinations with respect to the Project:

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

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

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

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

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

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

(g) the Project Facility 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; and

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

Section 3. The Agency hereby ratifies, confirms and approves all actions heretofore taken by the Administrative Director/CEO, the Chief Financial Officer and the staff of the Agency with respect to the Application, the Analysis and the Public Hearing, including, without limitation, (a) those actions required to ensure full compliance with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the Project, and (b) the appointment of the law firm of Phillips Lytle LLP as Counsel to the Agency with respect to all matters in connection with the Project.

Section 4. The Agency hereby determines that the Agency has fully complied with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the Project.

Section 5. Having considered fully all comments received at or in connection with the Public Hearing and the IDA Meeting, including correspondence received subsequent to the Public Hearing, the Agency hereby further determines to proceed with the Project and the granting of the Financial Assistance, subject to the terms hereof. The Agency hereby approves the granting of (a) an exemption from real property taxes having an estimated value of \$569,016, (b) an exemption from mortgage recording taxes in the maximum amount of \$22,500, and (c) an exemption from sales and use taxes in the maximum amount of \$86,400.

Section 6. The Agency recognizes that due to the complexities of the proposed transaction it may become necessary that certain of the terms approved hereby may require modifications from time to time which will not affect the intent and substance of the authorizations and approvals by the Agency herein. The Agency hereby authorizes the Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency, acting individually or jointly, to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution, but may include adjustments to the Financial Assistance granted hereunder. The approval of such modifications shall be evidenced by the certificate of determination of an Agency officer or the execution and delivery by some or all such Agency officers of relevant documents containing such modified terms.

Section 7. The Agency is hereby authorized to (a) acquire an interest in the Project Facility pursuant to the Company Lease and the other Transaction Documents, (b) grant a subleasehold interest in the Project Facility pursuant to the Agency Lease and the other Transaction Documents, (c) grant the Financial Assistance, (d) execute one (1) or more fee and leasehold mortgage, assignment of rents and leases, and security agreements in favor of such bank, governmental agency or financial institution as the Applicant may determine (such bank, governmental agency or financial institution, the "Bank"), encumbering the Project Facility, solely to subject the Agency's interest in the Project Facility to the lien thereof, all to secure one (1) or more loans made by the Bank to the Applicant with respect to the Project Facility, and (e) do all things necessary, convenient or appropriate for the accomplishment thereof. All acts heretofore taken by the Agency with respect to the foregoing are hereby approved, ratified and confirmed.

Section 8. The form and substance of the Transaction Documents, in the forms presented to the members of the Agency, together with such changes as the Chairman, Vice Chairman, Administrative Director/CEO or Chief Financial Officer may hereafter deem necessary or appropriate, are hereby approved. The Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer are hereby authorized, on behalf of the Agency, acting together or individually, to execute and deliver the Transaction Documents to which the Agency is a party and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same. The execution and delivery of each such agreement, approval and consent by such person(s) shall be conclusive evidence of such approval.



Section 9. The Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are hereby further authorized, on behalf of the Agency, acting together or individually, to designate any additional Authorized Representatives (as defined in the Agency Lease) of the Agency.

Section 10. The officers, employees and agents of the Agency are hereby authorized and directed, acting individually or jointly, for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Transaction Documents, to execute and deliver all such additional certificates, instruments, agreements and documents, to pay all such fees, charges and expenses, and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, convenient or appropriate to effect the purposes of this Resolution and to cause compliance with all of the terms, covenants and provisions of the Transaction Documents to which the Agency is a party or which are binding on the Agency.

Section 11. The members of the Agency acknowledge the terms and conditions of Section 875(3) of the Act and the duties and obligations of the Agency thereunder with respect to granting of State Sales and Use Taxes (as such term is defined in Section 875 of the Act) with respect to the Project. The members hereby direct the officers of the Agency to comply with such terms and conditions with respect to the Project and hereby direct Counsel to the Agency to include such terms and conditions in all relevant Transaction Documents.

Section 12. The Chairman, the Vice Chairman, the Administrative Director/CEO and the Chief Financial Officer of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 13. 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	AYE
Dan Heitzenrater	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 August 27, 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 27<sup>th</sup> day of August, 2024.

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

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

**Ellicott Property Sale SEQRA Resolution**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on August 27, 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
Sagan Sheffield-Smith	Treasurer
Daniel Heitzenrater	Secretary
Amy Harding	Member
Daniel DeMarte	Member
Tom Harmon	Member
Kevin Muldowney	Member

**NOT PRESENT:**

**THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:**

Mark Geise	Administrative Director/CEO
Richard E. Dixon	Chief Financial Officer
Milan K. Tyler, Esq.	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
Lee Crewson	401 Central LLC
Donnie Sheehan	Granite Source Power
Greg Bacon	Jamestown Post Journal

The attached resolution no. 08-27-24-02 was offered by Dan Heitzenrater, seconded by Sagan Shefeild-Smith.

**Resolution No. 08-27-24-02**

RESOLUTION OF THE COUNTY OF CHAUTAUQUA INDUSTRIAL  
DEVELOPMENT AGENCY PURSUANT TO THE STATE  
ENVIRONMENTAL QUALITY REVIEW ACT CONCERNING THE  
DETERMINATION OF SIGNIFICANCE FOR THE SALE  
OF CERTAIN REAL PROPERTY OWNED BY THE AGENCY LOCATED  
IN THE TOWN OF ELLICOTT, NEW YORK

**Name of Project:** Ellicott Property Sale

**Location:** Lodestro Lane, Town of Ellicott, County of Chautauqua and State of New York, and identified as Tax Map number 371.00-2-3.1; and also S. Dow Street, Town of Ellicott, County of Chautauqua and State of New York, located on and identified as Tax Map number 371.00-2-46.1.

**SEQR Status:** Unlisted

**Determination of Significance:** Negative Declaration

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 71 of the 1972 Laws of New York, as amended, constituting Section 895-h of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, renovating, improving, maintaining, equipping and furnishing of commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to, among other things, (i) acquire by purchase, lease, gift, bequest, devise or otherwise real or personal property or interests therein; (ii) to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of real property in such manner as the Agency shall determine; and (iii) 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, Lucy’s Energy Reserve LLC (“Applicant”), proposes to enter into a purchase and sale agreement (“Agreement”) with the Agency for the purchase of certain real property and improvements thereon located in the Town of Ellicott (“Town”), County of Chautauqua and State of New York, located adjacent to Lodestro Lane and S. Dow Street, and identified as Tax Map numbers 371.00-2-3.1 (“Parcel 1”) and 371.00-2-46.1 (“Parcel 2”) (Parcel 1 and Parcel 2 are referred to collectively herein as the “Land”); and

WHEREAS, Applicant proposes to enter the Agreement for the purchase of the Land with the intent of developing an as-of-yet undetermined energy storage project (“ Future Project”); and

WHEREAS, in accordance with Section 859-a of the Act, any approval of the Future Project is contingent upon, inter alia, a determination by the members of the Agency to proceed with the Future 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 Future Project have been satisfied; and (B) the undertaking of the Future 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 and all other statutes, codes, laws, rules and regulations of any governmental authority having jurisdiction over the Future Project and/or the Project Facility (collectively, the “Applicable Laws”); and

WHEREAS, the Agency now desires to authorize (A) the sale and conveyance of fee title to the Land to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency and/or (B) the granting of an option to acquire such fee title to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency (collectively, the “Sale Transaction”); and

WHEREAS, pursuant to Article 8 of the New York Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (“NYSDEC”), being 6 N.Y.C.R.R. Part 617, et seq., as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination whether to undertake the Sale Transaction; and

WHEREAS, pursuant to SEQRA, the Agency is normally required to review an entire set of activities or steps (i.e., the Sale Transaction and the Future Project) in a single environmental review but, if a lead agency believes that circumstances warrant a segmented review, it must clearly state in its determination of significance, the supporting reasons and must demonstrate that such review is clearly no less protective of the environment; and

WHEREAS, the Agency believes that a segmented review of the Sale Transaction and

the Future Project is warranted under the circumstances and is no less protective of the environment; and

WHEREAS, pursuant to SEQRA, to aid the Agency in determining whether the Sale Transaction may have a significant adverse impact upon the environment, the Agency has received and reviewed (1) Part 1 of a Short Environmental Assessment Form (“EAF”); (2) NYSDEC’s Environmental Resource Mapper (“NYSDEC Mapper”); (3) the New York State Cultural Resource Information System (“CRIS”); (4) the NYSDEC Environmental Remediation Database (“Remediation Database”); (5) the NYSDEC DECinfo Locator Mapper (“Info Locator”); and (6) other relevant environmental information (collectively, 1-6 shall be referred to as the “Environmental Information”); and

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

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

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

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

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

- (A) The Sale Transaction is an Unlisted Action pursuant to SEQRA, as the Sale Transaction involves the sale of less than 100 acres of land and does not meet or exceed any threshold for a Type I Action;
- (B) The Agency, as Lead Agency, has undertaken an uncoordinated review of the Sale Transaction in accordance with the requirements of SEQRA; and
- (C) No potentially significant adverse impacts on the environment are noted in the Environmental Information and none are known to the Agency.

**Section 2.** With respect to the scope of environmental review, the Agency determines that segmentation of the environmental review for the Sale Transaction from the environmental



review of the Future Project is warranted and no less protective of the environment. The reasons supporting this determination are as follows:

- (A) Segmenting the review of the Sale Transaction from the development of the Future Project as a whole is warranted under the circumstances. The Applicant strongly desires to acquire a fee title interest in the Land prior to moving forward with developing detailed plans for the Future Project in order to allow the Applicant to secure financing for the Future Project. The Applicant has not yet undertaken initial planning for the Future Project, as such plans will only be finalized once financing for the Future Project is secured.
- (B) Segmenting the review of the Sale Transaction from the development of the Future Project is no less protective of the environment. There are no cumulative adverse impacts from the Future Project which will combine with the Sale Transaction to exacerbate environmental impacts. Moreover, the Applicant will not be permitted to proceed with the Future Project or any development of the Land until completion of a detailed and thorough environmental review specific to the Future Project or such development either under the jurisdiction of the Agency (if an application for financial assistance is filed) or the Town as the local zoning jurisdiction. The Applicant has acknowledged and understands that the Applicant cannot proceed to develop the Land unless/until a SEQRA process has been completed for the development of the Land.
- (C) The Agency acknowledges that segmentation is disfavored under SEQRA. Nonetheless, the Agency believes that it is reasonable to consider segmentation of actions and whether appropriate segmentation findings can reasonably be made on a case by case basis in a manner that is no less protective of the environment. It is important to note that a segmented review of the Sale Transaction will not create either of the two dangers that SEQRA seeks to avoid. The first danger of segmentation is that the action under review is practically determinative of other future projects. In this case, the Sale Transaction involves the sale of real property for the development of the Land. Undertaking the Sale Transaction is not practically determinative of any development on the Land. It also does not commit the Applicant or Agency to undertake any development at the Land, as the ownership of the Land may revert back to the Agency pursuant to the Sale Transaction should the Future Project not proceed.
- (D) The second danger of segmentation is that the Sale Transaction will be split so as to avoid environmental review. The Agency has completed the EAF for the Sale Transaction in order to thoroughly analyze the potential adverse environmental impacts associated with the Sale Transaction. The EAF comprehensively reviews each potential environmental impact associated with the Sale Transaction, as detailed below. Thus, the Sale Transaction has not escaped any environmental review. Similarly, any development of the Land will undergo a detailed review pursuant to SEQRA. Further, no potential development plans have been proposed and no specific future use is known for the Future Project. Any evaluation of the potential impacts of any future development would be impossible and purely speculative, at this time. For this reason, a segmented environmental review between the Sale Transaction and any future development of the Land is warranted under the circumstances.

**Section 3.** Based upon the Agency’s review of the Environmental Information and investigations of the potential environmental impacts associated with the Sale Transaction, considering both the magnitude and importance of each potential environmental impact indicated, and upon the Agency’s knowledge of the Land and surrounding area and such further investigations of the Sale Transaction and its environmental effects as the Agency has deemed appropriate, the Agency has determined that the Sale Transaction will not have a significant adverse impact upon the environment. The reasons supporting this determination are as follows:

1. Impact on Land. The Sale Transaction does not involve any physical changes to the Land because the Agency seeks only to effectuate the sale of the Land. No physical alterations to the Land will occur as a result of the Sale Transaction, and hence there will be no adverse effects to the Land.
2. Impact on Geological Features. The Land does not contain, and is not adjacent to, any unique geologic features or National Natural Landmarks. Accordingly, the Sale Transaction will not create any potentially significant adverse impacts to geological features.
3. Impact on Surface Water. As the EAF notes, the Land contains an unnamed Class C stream (the “Stream”). While the Stream appears to be a tributary to the Chadakoin River located North of the Land, the Sale Transaction does not involve any type of physical alteration to the Land; therefore, it has no potential to adversely affect any water bodies on or around the Land.
4. Impact on Groundwater. As noted above, the Sale Transaction does not involve any type of physical alteration to the Land or any activities which would typically pose a risk to groundwater; therefore, it has no potential to adversely affect groundwater resources.
5. Impact on Flooding. The EAF indicates that the Sale Transaction will not result in the development of lands which are located in a designated floodway, and does not include the impoundment of water. The Sale Transaction does not involve any type of physical alteration to the Land or any activities which would exacerbate existing conditions with respect to flooding. Accordingly, the Sale Transaction is not anticipated to create any potentially significant adverse impacts to flooding.
6. Impact on Air. The Sale Transaction will not result in any development or physical alteration of the Land, and does not entail the types of activities or operations that require the Agency or Applicant to acquire air registration permits or that are associated with a significant potential for air emissions. Accordingly, the Sale Transaction is not anticipated to create any significant adverse impacts to air resources.
7. Impact on Plants and Animals. The EAF does not identify the Land as a habitat for any threatened or endangered species. Further, the Sale Transaction does not result in any development or physical alteration of the Land. Accordingly, the Sale Transaction is not anticipated to create any significant adverse impacts to plants or animals.

8. Impact on Agricultural Land Resources. As noted in the EAF, the Land is not located within an Agricultural District, and the Land is not currently used for farming. Based on the foregoing, the Sale Transaction will not create any significant adverse impacts to agricultural land resources.
9. Impact on Aesthetic Resources. The Sale Transaction does not result in any development or physical alteration of the Land. Accordingly, the Sale Transaction is not anticipated to create any significant adverse impacts to aesthetic resources.
10. Impact on Historic and Archaeological Resources. The Land is not adjacent to any building which is listed on the State or National Register of Historic Places. The Land is located adjacent to, but not within, area delineated as archaeological buffer zones by the New York State Division for Historic Preservation. Notwithstanding, the Sale Transaction does not result in any development or physical alteration of the Land. Accordingly, the Sale Transaction will not create any significant impacts to historic or archaeological resources.
11. Impact on Open Space and Recreation. The Sale Transaction does not result in any development or physical alteration of the Land or otherwise limit existing open space and recreation in the vicinity of the Land. Accordingly, the Sale Transaction will not create any significant impacts to open space or recreational resources.
12. Impact on Critical Environmental Areas. The Land is not located in or substantially contiguous to any Critical Environmental Areas. As such, the Sale Transaction will not create any significant adverse impacts to Critical Environmental Areas.
13. Impact on Transportation. The Sale Transaction does not entail any changes to existing parking or traffic levels as it does not result in any development or physical alteration of the Land. As such, the Sale Transaction is not anticipated to create any significant adverse impacts to transportation.
14. Impact on Energy. The Sale Transaction will not result in any increase in the use of energy, and no energy infrastructure improvements are necessary to accommodate the Sale Transaction. As such, the Sale Transaction will not create any significant adverse impacts to energy resources.
15. Impact on Noise, Odor and Light. The Sale Transaction involves only the transfer of fee title to the Land itself and does not result in any development or physical alteration of the Land. Accordingly, the Sale Transaction is not anticipated to create any significant adverse impacts to noise or odors.
16. Impact on Public Health. The Land does not include a history of prior remediation. However, as identified in the EAF, the Land is located within 2,000 feet of sites with a history of prior remediation and identified in the Remediation Database as 907020; 907013; V00129. (“Remediation Sites”). According to the EAF and the Remediation Database, the Remediation Sites are not directly adjacent to the Land, and remediation of the Remediation Sites has been completed. Additionally, there is an active, NYSDEC authorized recyclables handling and recovery facility located adjacent to the Land at 2142 Lodestro Lane (“Recycle Facility”). The Sale Transaction involves only

the transfer of fee title to the Land itself and does not result in any development or physical alteration of the Land or of the Remediation Sites or Recycle Facility. Furthermore, any impacts associated with the development of the Future Project on public health will be appropriately analyzed once the Future Project is proposed and fully planned. Accordingly, the Sale Transaction is not anticipated to create any significant adverse impact to public health.

17. Impact on Character of the Community, and Community Plans. The Sale Transaction involves only the transfer of fee title to the Land itself and does not result in any development or physical alteration of the Land. Accordingly, the Sale Transaction will not create any significant adverse impacts to the character of the community or community plans.

**Section 4.** Since the Sale Transaction will not have a significant adverse impact on the environment, a negative declaration (“Negative Declaration”) pursuant to SEQRA is hereby issued. This Negative Declaration has been prepared pursuant to and in accordance with the requirements of SEQRA.

**Section 5.** The Chairman, the Vice Chairman, and the Administrative Director of the Agency are hereby further authorized on behalf of the Agency, or acting together or individually, to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

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

**Section 7.** For further information on this Determination of Significance/Negative Declaration contact:

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

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	AYE
Dan Heitzenrater	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 August 27, 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 27<sup>th</sup> day of August, 2024.

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

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



County of Chautauqua Industrial Development Agency



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**RESOLUTION 08-27-24-03 OF THE MEMBERS OF  
COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY  
TO SELL TO LUCY'S ENERGY RESERVE LLC PROPERTY LOCATED (i) ON LODESTRO LANE  
IN THE TOWN OF ELLICOTT AND (ii) ON SOUTH DOW STREET, IN THE TOWN OF  
FALCONER, BOTH IN  
CHAUTAUQUA COUNTY, NEW YORK**

I, Gary Henry, Chairperson of the County of Chautauqua Industrial Development Agency ("CCIDA") hereby CERTIFY that at a meeting of the Board of Directors of said CCIDA, duly called and held at 201 West Third Street, Jamestown, NY 14701 on the 27th day of August, 2024, at which a quorum was present, the following resolutions were unanimously adopted:

WHEREAS, CCIDA is the owner of certain real property and improvements thereon located in the Town of Ellicott, County of Chautauqua and State of New York, located on Lodestro Lane, and identified as Tax Map number 371.00-2-3.1 ("Parcel 1") and also the real property and improvements located in the Town of Falconer, County of Chautauqua and State of New York, located on South Dow Street, and identified as Tax Map number 371.00-2-46.1 ("Parcel 2") (Parcel 1 and Parcel 2 are referred to collectively herein as the "Property");

WHEREAS, CCIDA has received an offer to enter into a Purchase and Sale Agreement (the "Contract") from Lucy's Energy Reserve LLC ("Buyer"), to sell the Property for the sum of Seventy Five Thousand and 00/100 Dollars (\$75,000);

WHEREAS, the Buyer desires to acquire the Property as a site for a possible future battery energy storage project, which project would be in the interest of the CCIDA as an economic development agency;

WHEREAS, pursuant to Article 8 of the New York Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York ("NYSDEC"), being 6 N.Y.C.R.R. Part 617, et. seq., as amended (the "Regulations" and collectively with the SEQR Act, "SEQRA"), the appropriate personnel of the CCIDA reviewed the environmental assessment form and other materials prepared by the CCIDA and made any necessary comments to the members of the CCIDA, and by resolution of the members of the CCIDA adopted on August 27, 2024, the CCIDA determined that the execution of the Contract would have no significant adverse environmental impacts and issued a negative declaration in accordance with SEQRA; and

WHEREAS, CCIDA has reviewed its Real Property Disposition Policy and concluded, based on the recommendation of its Contracting Officer, that the disposition of the Property is in furtherance of the economic development interest of CCIDA, as provided for in Section 3(F)(3)(e) of said policy; and

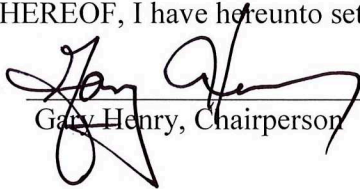
WHEREAS, CCIDA deems it in the best interest of CCIDA to sell the Property to the Buyer under terms and conditions set forth in the form of Contract attached hereto and otherwise as acceptable to the Administrative Director and/or the Chief Financial Officer;

NOW, THEREFORE, BE IT:

RESOLVED, that CCIDA proceed to sell the Property to the Buyer under terms and conditions set forth in the form of Contract attached hereto and otherwise as acceptable to the Administrative Director and/or Chief Financial Officer; and it is

FURTHER RESOLVED, that the Administrative Director, Chief Financial Officer or any officer of CCIDA be and hereby is authorized to execute and deliver any and all documents necessary to effectuate the foregoing resolutions, and that such actions be and hereby are ratified in all respects.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 27<sup>th</sup> day of August, 2024.

  
\_\_\_\_\_  
Gary Henry, Chairperson



**PURCHASE AND SALE AGREEMENT**

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made as of the 29<sup>th</sup> day of August, 2024, (the "Effective Date") by and between COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY with a mailing address of 201 W 3<sup>rd</sup> Street, Suite 115, Jamestown, New York 14701 (the "Seller") and LUCY'S ENERGY RESERVE LLC, with a mailing address of 155 Fleet Street, Portsmouth, New Hampshire 03801 (the "Buyer").

**RECITALS:**

A. Seller is the owner of certain real property and improvements thereon located in the Town of Ellicott, County of Chautauqua and State of New York, located on Lodestro Lane, and identified as Tax Map number 371.00-2-3.1 ("Parcel 1") and also the real property and improvements located in the Town of Falconer, County of Chautauqua and State of New York, located on S. Dow Street, and identified as Tax Map number 371.00-2-46.1 ("Parcel 2") (Parcel 1 and Parcel 2 are referred to collectively herein as the "Property").

B. Buyer desires to purchase, and Seller desires to sell, the Property on the terms and conditions set forth herein.

**AGREEMENTS**

1. Property. Parcel 1 is located on Lodestro Lane, in the Town of Ellicott, County of Chautauqua, State of New York, Tax Map No. 371.00-2-3.1, consisting of approximately ten (10.00) acres of vacant land and Parcel 2 is located on S. Dow Street, in the Town of Falconer, County of Chautauqua, State of New York, Tax Map No. 371.00-2-46.1, consisting of approximately two and 30/100 (2.3) acres of vacant land.

2. Purchase Price. The purchase price (the "Purchase Price") for the Property shall be equal to SEVENTY FIVE THOUSAND AND 00/100 DOLLARS (\$75,000.00). The Purchase Price will be paid in cash from Buyer to Seller at the closing of the sale and purchase of the Property (the "Closing") by cashier's or certified check, or by wire transfer of immediately available funds, subject to adjustments and pro-rations for taxes in accordance with this Agreement.

3. Contingencies. Buyer's obligation to purchase the Property is contingent on Buyer being satisfied with the condition of the Property, to its sole satisfaction. After the Effective Date and continuing for a period of ninety (90) days thereafter (the "Due Diligence Period"), Buyer and its designated agents may enter the Property, at reasonable times and upon reasonable notice to Seller, for the purpose of making surveys, investigations and inspecting the physical condition of the Property, including but not limited to a Phase I Environmental Study, provided that such operations are solely at Buyer's expense. Seller agrees to cooperate with Buyer, provided it is without cost to Seller. Buyer shall repair any and all damage by reason of Buyer entry upon or inspection of the Property. Following the conclusion of its testing, Buyer will restore the disturbed Property to the condition the disturbed Property was in prior to commencement of the inspection. Notwithstanding anything contained in this Agreement to the contrary, the obligations of Buyer to restore the Property shall survive any termination of this Agreement. If the contingencies set forth in Section 3 of this Agreement have not been satisfied on or before the end of the Due Diligence Period, then this Agreement may be terminated, at Buyer's option, by written notice from Buyer

to Seller given not more than five (5) business days after the end of the Due Diligence Period. Upon such termination, neither party will have any further rights or obligations regarding this Agreement except Buyer's obligation to repair as described above.

In the event it is determined by Buyer in its sole discretion during the Due Diligence Period that a Phase 2 Environmental Study is required, Buyer shall be entitled to exercise a ninety (90) day extension of the Due Diligence Period to perform the Phase 2 Environmental Study (the "Due Diligence Extension Period"), and all other provisions of this Section 3 shall apply.

4. Due Diligence Deliverables.

Seller shall deliver to Buyer, no later than thirty (30) days after the Effective Date, a copy of the following for both Parcel 1 and Parcel 2:

- (a) any existing title insurance policies, to the extent in Seller's possession;
- (b) any existing surveys ("Survey"), to the extent in Seller's possession;
- (c) a true, correct and complete copy of all governmental licenses and approvals issued in connection with the Property, to the extent in Seller's possession;
- (d) any existing abstract of title, to the extent in Seller's possession; and
- (e) a true, correct and complete copy of any and all soil studies and reports; all environmental assessments, studies, tests, reports and analysis; and all other studies, reports, permits, subdivision and planned unit development plats, approvals and plans, tax statements, copies of drawings, specifications, zoning information, topographical and engineering studies, geotechnical subsoil tests or analyses, soil compaction tests and any and all other reports, plans, studies, data and information held by or for Seller relating to the Property, or any portion thereof, or the development thereof, which Seller or any of its agents or representatives have in their possession.

5. Title Defects.

(a) Buyer may obtain, at Buyer's expense, an updated abstract of title (the "Updated Abstract") and a title commitment (the "Commitment").

(b) Buyer shall order the Updated Abstract within five days of the Effective Date and Buyer shall order the Commitment within five days of receipt of the Updated Abstract. If the Commitment or Survey shall show any title defect, lien or encumbrance (a "Title Defect") not acceptable to Buyer, Buyer shall notify Seller of the Title Defect prior to the end of the Due Diligence Period or fifteen (15) days after receipt of both the Commitment and Survey, whichever occurs later. Seller shall have a period not to exceed thirty (30) days after receipt of notice from Buyer (the "Cure Period"), to remove the Title Defect. If Seller is unwilling or unable do so within the Cure Period, then Buyer shall have the right (but not the obligation) to either (i) accept title to the Property subject to the Title Defect, which shall then become a permitted exception ("Permitted Exception"), without reduction in the Purchase Price; or (ii) cancel and terminate this Agreement. For purposes of clarification, in no event shall a Title Defect that has been removed from the Commitment thereafter be deemed a Permitted Exception hereunder. Seller shall be required to remove at Closing, those Title Defects that can be removed by paying an ascertainable sum of money such as mortgages, land contracts, liens, unpaid taxes, and special assessments (excepting, however, those taxes and expenses required to be paid by Buyer under the terms hereof).

6. Conveyance. Seller shall convey the Property to Buyer in accordance with the provisions of Section 5 above by Warranty Deeds with Lien Covenant (the "Deed"), good and marketable title in fee simple, free and clear of all liens, easements, conditions or restrictions except the Permitted Exceptions.

7. Covenants of Seller.

(a) From and after the Effective Date, Seller shall not intentionally suffer or permit any third party to adversely affect Seller's title to or interest in the Property, and will not suffer or permit to be created any exceptions to the title of the Property other than the Permitted Exceptions.

(b) Seller shall, at Buyer's expense, cooperate and take all actions reasonably required by Buyer including, without limitation, signing any special permit or other right to build applications and cooperating with any necessary marketing and site visits, provided it is without cost to Seller.

(c) Seller shall not intentionally take any of the following actions unless approved in advance in writing by Buyer: (i) transfer any interest in the Property, (ii) grant or modify any easements affecting the Property, (iii) create any liens, mortgages or encumbrances affecting the Property, (iv) enter into any development or other agreements affecting the Property (except as requested by Buyer); (v) permit any changes to the zoning classification of the Property; or (vi) enter into any contracts or agreements pertaining to the Property.

(d) Seller shall adhere to the requirements of all liens and encumbrances, agreements and other contractual arrangements to which the Property or Seller is subject and make all payments required to be paid thereunder and suffer no default thereunder.

(e) Seller shall notify Buyer promptly if, prior to the Closing, Seller becomes aware of any fact, transaction, event or occurrence which could make any of the covenants of Seller under this Agreement not materially true.

(f) Seller shall not withdraw, settle or otherwise compromise any protest or reduction proceeding affecting real estate taxes assessed against the Property for any fiscal period in which the Closing is to occur or any subsequent fiscal period without the prior written consent of Buyer, which consent shall not be unreasonably withheld.

(g) Seller, at their sole expense, shall deliver possession of the Property to Buyer at Closing, free of any tenancy.

8. Representations and Warranties of Seller. In order to induce Buyer to enter into this Agreement, Seller represents and warrants to Buyer that: (a) fee simple ownership of the Property is vested solely in Seller; (b) no proceedings of any type (including condemnation or similar proceedings), to Seller's knowledge, are being contemplated against the Property or any part thereof; (c) the Property is not subject to any leases (written or oral), unrecorded easements, options to purchase, rights of first purchase or refusal, or any other agreement or contract to use, lease, or purchase the Property, except those shown in the public record; (d) the person executing this Agreement on behalf of Seller is authorized to do so under the Seller's organizational documents; and (e) to the best of Seller's knowledge at no time was the Property used for the generation, storage or disposal of hazardous substances or as a landfill or other waste disposal site.

9. Closing. The closing of the purchase by Buyer of the Property shall occur on or about sixty (60) days' after Buyer has waived or satisfied the contingencies set forth in Section 3

above. Notwithstanding, Buyer may close within five (5) business days during the Due Diligence Period or Due Diligence Extension Period by providing written notice to the Seller.

10. Adjustments at Closing. Adjustments to the Purchase Price between Seller and Buyer shall be made for the following items, prorated on a per diem basis as of 11:59 p.m. of the day prior to Closing: (a) real estate taxes and other state or city taxes, charges and assessments; and (b) water and sewer rents, fees, and charges with respect to the Property. All bills for utility services to the Property shall also be paid in full by Seller as of the Closing, and all such utility services shall be transferred by Seller into Buyer's name at Closing. At Closing, Seller shall pay any transfer taxes due with the filing of the New York State Department of Taxation and Finance Form TP-584 Combined Real Estate Transfer Tax Return and Credit Line Mortgage Certificate.

11. Closing Deliverables. At the time of Closing, Seller shall execute, acknowledge (where applicable) and deliver to Buyer the following items in form and substance reasonably satisfactory to Buyer's legal counsel:

- i. The Deed, properly executed and acknowledged for recording so as to convey the title to the Property as required by this Agreement;
- ii. A New York State Department of Taxation and Finance Form TP-584 Combined Real Estate Transfer Tax Return and Credit Line Mortgage Certificate;
- iii. A New York State Board of Equalization and Assessment Form;
- iv. a copy of Seller's authorizing resolution; and
- v. Such other documents as Buyer's title insurance company may reasonably require in order to issue the Commitment which is satisfactory in form to Buyer's legal counsel.

To enable the Seller to make the conveyance herein provided, the Seller may, and if necessary shall, at Closing, use the Purchase Price or any portion thereof to clear the title of any or all encumbrances or interests which are to be removed or eliminated by the terms hereof, provided that all instruments so procured are recorded at Seller's expense prior to or simultaneously with the delivery of the Deed or other reasonable arrangements, satisfactory to Buyer.

12. Waiver. The exercise (or failure to exercise) of any one of Buyer's rights or remedies under this Agreement shall not be deemed to be in lieu of, or a waiver of, any other right or remedy contained herein or provided by law, except to the extent inconsistent herewith.

13. Remedies.

(a) Upon Seller default of any obligation herein, Buyer shall notify Seller of the specific nature of the default and allow Seller a ten (10) day period to cure such default (the "Remedy Period"). Upon the expiration of the Remedy Period, if the Seller remains in default, Buyer may either: (i) declare this Agreement terminated and thereafter all rights and obligations of the parties hereunder shall be terminated; or (ii) enforce specific performance of Seller's obligations under this Agreement.

(b) Upon a default by Buyer on any of its obligations herein, Seller shall notify Buyer of the specific nature of the default and allow Buyer to cure the default within the Remedy Period. Upon the expiration of the Remedy Period, if Buyer remains in default, Seller may declare this

Agreement terminated, and all other rights and obligations of the parties hereunder shall be terminated.

(c) In the event any litigation is commenced in connection with a dispute between Seller and Buyer with respect to the subject matter of this Agreement, the prevailing party shall be entitled to collect from the non-prevailing party the prevailing party's reasonable attorneys' fees and court costs in connection with such litigation. The provisions of this Paragraph 13(c) shall survive the termination of this Agreement.

14. Commissions. Seller and Buyer represent that they have not dealt with any brokers, Seller and Buyer hereby agree to indemnify and hold each other and its nominee harmless with respect to any claim, including the cost of counsel fees, made by any other real estate broker in connection herewith.

15. Notices. All notices, requests, waivers, and other communications under this Agreement shall be in writing and shall be deemed properly served upon delivery (a) by hand; (b) by sender to the applicable carrier if sent postage prepaid by United States Registered or Certified Mail, Return Receipt Requested; (c) by sender to a nationally recognized overnight express mail courier to the following street addresses:

If to Seller at: 201 W 3<sup>rd</sup> Street, Suite 115, Jamestown, New York 14701

With a copy to Seller's attorney:

Phillips Lytle LLP  
Att: Milan K. Tyler, Esq.  
201 West 3<sup>rd</sup> Street, Suite 205  
Jamestown, NY 14701

If to Buyer:

Lucy's Energy Reserve LLC  
Att: Christopher Hickey  
155 Fleet Street  
Portsmouth, New Hampshire 03801

With a copy to Buyer's attorney:

BARCLAY DAMON LLP  
Att: Christopher J. Babiarz, Esq.  
125 E. Jefferson Street  
Syracuse, New York 13202

16. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

17. Modifications. This Agreement may not be modified, amended or changed except by a written agreement specifically referring to this Agreement signed by Buyer and Seller.

18. Confidentiality. The terms and conditions of this Agreement, including, without limitation, any information delivered by Buyer to Seller in connection with this Agreement and the transaction contemplated hereby, including the identity of Buyer, are confidential and Seller shall not disclose the terms of this Agreement to any third party except as may be required by law or to enforce its rights hereunder; provided, however, Seller shall be permitted to disclose the terms of this Agreement to Seller's legal counsel, accountants and brokers. Buyer acknowledges that Seller is subject to New York's Freedom of Information Law.


19. Purchase Option. Buyer and Seller acknowledge that Buyer is proposing to build a Battery Energy Storage System on the Property (the "Project"). In the event the Project is Cancelled ("Cancelled" is defined as not applying to County of Chautauqua Industrial Development Agency within thirty (30) months of Closing OR the sale of all or a material portion of the Property to a third party which Buyer does not own a controlling interest in), or Not Completed ("Not Completed" is defined as a failure to start construction within six (6) years or complete construction within seven (7) years), Buyer shall provide notice to Seller in accordance with Section 15 hereof, and Seller shall have thirty (30) days to exercise Seller's right to purchase back the Property on terms substantially similar to this Agreement at a purchase price of SIXTY THOUSAND AND 00/100 DOLLARS (\$60,000.00). Buyer agrees to use reasonable good faith efforts to cooperate with the exercise of this Purchase Option. In the event Seller does not exercise its Purchase Option within the thirty day time period, the Purchase Option shall extinguish and the parties shall have no further obligations to one another.

20. Counterparts/Delivery. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original for all purposes, and all such counterparts shall together constitute one and the same instrument. Counterparts may be delivered by .pdf attachment to an email, by facsimile, or via an electronic signature platform.

IN WITNESS WHEREOF, the parties have executed this Agreement.

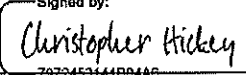
**SELLER:**

**COUNTY OF CHAUTAUQUA  
INDUSTRIAL DEVELOPMENT  
AGENCY**

By:   
Its: ~~Richard Nixon~~, CFO  
Richard Dixon, CFO

**Buyer:**

**LUCY'S ENERGY RESERVE LLC**

Signed by:  
By:   
7972453441B94AG...  
Its: \_\_\_\_\_