

**SMALL SOLAR RESOLUTION
FOR JAMESTOWN RUBBER STAMP CO., INC.**

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session at the offices of the Agency located at 201 West Third Street, City of Jamestown, County of Chautauqua, New York, on October 22, 2024, at 10:30 A.M. local time.

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
Gregory L. Peterson, Esq.	Counsel

The attached resolution no. ____ was offered by _____, seconded by _____:

Resolution No. 10-22-24-01

**RESOLUTION TAKING OFFICIAL ACTION TOWARD AND APPROVING
THE ACQUISITION AND STRAIGHT LEASING OF LAND AND A CERTAIN
SMALL SOLAR PROJECT FOR JAMESTOWN RUBBER STAMP CO., INC.**

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of 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, JAMESTOWN RUBBER STAMP CO., INC. (the “Applicant”) has requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in a portion (the “Parcel”) of certain real property located at or around 1611 Foote Avenue, Town of Kiantone, Jamestown, County of Chautauqua, State of New York (the “Land”), and (2) the acquisition of the Parcel and the installation of an approximately 0.24 megawatt A/C solar power generation facility (collectively, the “Power Generation Facility”, and together with the Parcel, the “Project Facility”), all of the foregoing to constitute a power generation facility to be used for the Applicant’s own power requirements; (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 real property taxes (but not including special assessments and ad valorem levies) (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Applicant or such other entity 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 the undertaking of the Project by the Agency and the granting of the Financial Assistance are and will be in compliance with all 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, 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, dated October 2, 2024 (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 that the Project is a Type II Action pursuant to SEQRA because it involves installation of a solar energy array on a parking lot involving less than 25 acres of physical alteration and does not exceed any threshold that would otherwise make it a Type I Action; 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 will (A) execute and deliver one or more leases (the “Lease”) from the Applicant to the Agency, pursuant to which the Applicant will convey an interest in the Project Facility to the Agency; (B) execute and deliver a certain sublease and PILOT agreement (the “Sublease”) between the Agency and the Applicant, pursuant to which the Agency will grant to the Applicant a sub-leasehold interest in the Project Facility; and (c) execute and deliver certain other certificates, documents, instruments and agreements related to the Project (together with the Lease and the Sublease, the “Transaction Documents”);

WHEREAS, the members of the Agency acknowledge the terms and conditions of Section 875(3) of the Act (which terms and conditions are hereby incorporated herein) and the duties and obligations of the Agency thereunder with respect to the granting of State Sales and Use Taxes (as such term is defined in Section 875 of the Act) with respect to the Project.

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 installation of solar energy arrays where such installation involves 25 acres or less of physical alteration on parking lots and does not meet or exceed any threshold for a Type I action.

(b) More specifically, the Project involves the construction and operation of an approximately 0.24 megawatt A/C solar power generation facility on an existing parking lot across approximately .5 acres. The Project will not expand the footprint of disturbance associated with the Project Facility nor increase or substantially alter environmental impacts associated with the Land and existing structures or operations thereon.

Section 2. The Agency hereby ratifies, confirms and approves all actions heretofore taken by the Administrative Director and the staff of the Agency with respect to the Project.

Section 3. The Agency hereby determines to proceed with the Project and the granting of the Financial Assistance.

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. The Agency is hereby authorized to (a) acquire an interest in the Project Facility pursuant to the Lease and the other Transaction Documents, (b) grant a sub-leasehold interest in the Project Facility pursuant to the Sublease and the other Transaction Documents, (c) grant the Financial Assistance, and (d) do all things necessary, convenient or appropriate for the accomplishment thereof.

Section 6. The form and substance of the Transaction Documents shall be as determined by the Chairman, Vice Chairman, Chief Financial Officer or Administrative Director of the Agency, and the Chairman, Vice Chairmen, Chief Financial Officer and the Administrative Director are hereby authorized, on behalf of the Agency, 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.

Section 7. 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 8. 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	VOTING
Bradley Walters	VOTING
Sagan Sheffield-Smith	VOTING
Dan Heitzenrater	VOTING
Kevin Muldowney	VOTING
Amy Harding	VOTING
Daniel DeMarte	VOTING
Tom Harmon	VOTING

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 October 22, 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 22nd day of October, 2024.

[Assistant] Secretary

[Vice] Chairman



APPLICATION FOR FINANCIAL ASSISTANCE

Please respond to all questions in this Application for Financial Assistance (the "Application") by, as appropriate: filling in blanks; checking the applicable term(s); attaching additional text (with appropriate notations, such as "see Schedule 2(A), etc.); or writing "N.A.", signifying "not applicable".

The following amounts are payable to the County of Chautauqua Industrial Development Agency (the "Agency") at the time this Application is submitted to the Agency: (i) a \$1,000 non-refundable application fee (the "Application Fee"); and (ii) a \$1,000 expense deposit for the Agency's Transaction/Bond Counsel fees and expenses (the "Counsel Fee Deposit"). The Application Fee will not be credited against any other fees or expenses which are or become payable to the Agency in connection with this Application or the project contemplated herein (the "Project"). In the event that the subject transaction does not close for any reason, the Agency may use all or any part of the Counsel Fee Deposit, to defray the cost of Transaction/Bond Counsel fees and expenses with respect to the Project. In the event that the subject transaction closes, the Counsel Fee Deposit shall be credited against the applicable expenses incurred by the Agency with respect to the Project.

- Please contact the CCIDA Main Office @ (716) 661-8900 with any questions relative to the application content and/or process.

PART I: APPLICANT

Name: Jamestown Rubber Stamp Co., Inc.
Address: 1611 Foote Ave.
Jamestown, NY 14701
Phone: 716-484-8185
NY State Dept. of Labor Reg #: _____
Federal Employer ID #: 16-0952123
NAICS Code #: _____
NAICS Sector: _____
NAICS Industry: _____
Website: JRSCDigital.com

Nature of business (goods to be sold, manufactured, assembled or processed, services rendered):
Printing/Fulfillment

Contact Name: Nick Bradish
Title: Owner
Phone Number: 7167081747
E-Mail: nick@jrscdigital.com

Business Type:

- Sole Proprietorship
- General Partnership
- Limited Partnership
- Limited Liability Company
- Privately Held Corporation
- Publicly Held Corporation
- Not-for-Profit Corporation

State/Year of Incorporation/Organization: 1956
Qualified to do Business in New York (Yes or No): yes

Owners of 20% or more of Applicant:

Name **%**
Nicholas Bradish 50%
G. Justin Schuver 50%

PART II: PROJECT

Address of proposed project facility: 1611 Foote Ave.
Jamestown, NY 14701
Tax Map Parcel Number(s): 404.00-2-17
City/Town/Village(s): Town of Kiatone
School District(s): Jamestown
Current Legal Owner: G Barton Schuver
Contract to purchase (Yes or No): No - Lease from G. Barton Schuver
Date of purchase: _____
Purchase price: \$ _____

Present use of the Project site: JRSC Digital production facility and storefront. Not changing use, just adding solar

What are current real estate taxes on the Project site?
County/Town: \$ 5,088.69
City/Village: \$ _____
School: \$ 7,911.41

Are tax cert. proceedings currently pending with respect to the Project real property?
YES **NO**

Proposed User(s)/Tenant(s) of the Facility
(Complete for each User/Tenant for additional User/Tenants of the Company, use space at the end of this section)

Company Name: JRSC Digital
Address: 1611 Foote Ave.
City/State/Zip: Jamestown, NY 14701
Tax ID No.: 16-0952123
Contact Name: Nick Bradish
Title: Owner
Phone Number: 716-708-1747
E-Mail: nick@jrscdigital.com

% of facility to be occupied by User/Tenant:
100

Relationship to the Applicant:

PART III. CAPITAL COSTS OF THE PROJECT

A. Provide an estimate of Project Costs of all items listed below:

	Item	Cost
1.	Land and/or Building Acquisition:	_____
2.	Building Demolition:	_____
3.	Construction/Reconstruction/Renovation:	_____
4.	Site Work:	_____
5.	Infrastructure Work:	_____
6.	Furniture, Equipment, Machinery:	_____
7.	Architectural/Engineering Fees:	_____
8.	Applicant's Legal Fees:	_____
9.	Financial Fees:	_____
10.	Other Professional Fees:	_____
11.	Other Soft Costs (describe):	_____
12.	Other (describe):	1,041,520
	Total Project Costs:	<u>\$ 1,041,520</u>

	Estimated Sources of Funds for Project Costs:	Source
1.	Tax-Exempt IDA Bonds:	_____
2.	Taxable IDA Bonds:	_____
3.	Conventional Mortgage Loans:	_____
4.	SBA or other Governmental Financing Identify: _____	_____
5.	Other Public Sources (e.g., grants, tax credits): Identify: <u>50% REAP Grant, 30% Federal Tax Credit</u>	<u>833,212</u>
6.	Other Public Agency Loans:	_____
7.	Other Private Loans:	_____
8.	Equity Investment: (Excluding equity attributable to grants/tax credits)	<u>208,308 (cash from JRSC)</u>
	Total Funding:	<u>\$ 1,041,520</u>

What percentage of the total project costs are funded/financed from public sector sources: 70 %

C. Requested Financial Assistance

Tax-Exempt Bonds: \$ _____
 Taxable Bonds: \$ _____
 Estimated Value of Sales Tax Benefit: \$ _____
 (i.e., gross amount of cost of goods and services that are subject to state and local sales and use taxes multiplied by [8.0%])

Estimated Value of Mortgage Tax Benefit: \$ _____
 (i.e., principal amount of mortgage loans multiplied by [1.25%])

Estimated CCIDA PILOT Property Tax Benefit:

Type: Small Alternate Energy Facility

Term: 15 years

Schedule Requested: Small Alternate Energy Facility

Deviation? Yes No

Will the proposed Project utilize a property tax exemption benefit other than from the Agency: no
(if so, please describe requested type, term and schedule)

Existing Total Annual Property Taxes on Land and Building: \$ 13000

Estimated Additional Property Taxes on completed Project over the requested PILOT term (without Agency financial assistance): \$ 43,200

Other (specify): _____

NOTE: Upon acceptance of this Application by the Agency, the Agency's staff will create a PILOT schedule and indicate the estimated amount of PILOT Benefit/Cost utilizing anticipated tax rates and assessed valuation, make an estimate of the allocation of PILOT payments among the affected tax jurisdictions, and attach such information as Exhibit A hereto.

The Applicant acknowledges that the transaction/bond documents may include a covenant by the Applicant to undertake and document the total amount of capital investment as set forth in this Application.

D. Status of Expenses

Have any of the above costs been paid or incurred (including contracts of sale or purchase orders) as of the date of this application? If YES, describe particulars on a separate sheet.

YES NO

E. Existing Operations

Does the Applicant or any User(s)/Tenant(s) currently operate in the County? If YES, describe such operations, including whether the proposed Project will result in the relocation or abandonment of such other operation(s).

Yes, We will continue all operations of JRSC at this site.
This is just adding solar so we can continue to afford to stay in
Chautauqua County.

PART IV: COST-BENEFIT ANALYSIS

Provide the current annual payroll in Chautauqua County. Then, estimate projected payroll in years 1, 2, and 3, after completion of Project.

	<u>Present</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Full Time:	\$ 971,000	\$ 1,000,000	\$ 1,050,000	\$ 1,100,000
Part Time:	\$ 0	\$	\$	\$

If the Applicant presently operates in Chautauqua County, provide the current number of employees in the following occupations. Then, estimate the projected Full Time Equivalent (“FTE”) employees as indicated following completion of the Project:

Current and Planned Occupations	Present Jobs Per Occupation	Est. FTEs Post-Completion:			Est. # of County Residents. by yr. 3
		1 year	2 years	3 years	
Management	<u>2</u>	<u>2</u>	<u>2</u>	<u>3</u>	<u>3</u>
Professional	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>6</u>
Administrative	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Production	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>14</u>
Supervisor	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Laborer	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Independent Contractor	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Other (describe)	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

List the average salaries or provide ranges of salaries for the following categories of jobs (on a full-time equivalency basis) projected to be retained/created in Chautauqua County because of the proposed Project:

Category of Jobs to be Retained/Created:	Average Salary or Range of Salary:	Average Fringe Benefits or Range of Fringe Benefits:
Management	127,000	
Professional	69,000	
Administrative		
Production	55,000	
Supervisor		
Laborer		
Independent Contractor ¹		
Other		

Please indicate the number of temporary construction jobs anticipated to be created in connection with the acquisition, construction, and/or renovation of the Project: 10

Please note that the Agency may utilize the foregoing employment projections, among other things, to determine the financial assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction/bond documents may include a covenant by the Applicant to retain the above number of jobs, types of occupations and amount of payroll with respect to the proposed project.

¹NOTE: The Agency converts part-time jobs into FTE’s for evaluation and reporting purposes by dividing the number of part-time jobs by two (2).
²As used in this chart, this category includes employees of independent contractors.

What percentage of the Applicant's total dollar amount of production, sales or services (including production, sales or services rendered following completion of the Project) are made to customers outside the economic development region (i.e., Western New York)?

50 %

Describe any municipal revenues that will result from the Project (excluding any PILOT payments):

What is the estimated aggregate annual amount of goods and services to be purchased by the Applicant for each year after completion of the Project, and what portion will be sourced from businesses located in Chautauqua County and the State:

	Amount	% Sourced in Chautauqua County	% Sourced in State
Year 1	\$ 1,700,000	10	50
Year 2	\$ 1,900,000		
Year 3	\$ 2,100,000		

Describe, if applicable, other benefits to the Chautauqua County anticipated as a result of the Project, including a projected annual estimate of additional sales tax revenue generated, directly and indirectly, as a result of undertaking the project:

Helps us be grow and be able to stay in Chautauqua County

If applicable, has construction/reconstruction/renovation work on the Project begun? If YES, indicate the percentage of completion:

- 1. (a) Site clearance YES NO _____% complete
- (b) Environmental Remediation YES NO _____% complete
- (c) Foundation YES NO _____% complete
- (d) Footings YES NO _____% complete
- (e) Steel YES NO _____% complete
- (f) Masonry YES NO _____% complete
- (g) Interior YES NO _____% complete
- (h) Other (describe below): YES NO _____% complete

If NO to all of the above categories, what is the proposed date of commencement of construction, reconstruction, renovation, installation or equipping of the Project?

Provide an estimated time schedule to complete the Project and when first use of the Project is expected to occur:

Start in October 2024

Complete in December 2024

Operational January 2025

PART V: QUESTIONS

Please answer the following questions. If the answer is "YES" to any question, please provide details in the space provided at the end of the section.

1. Is the Project reasonably necessary to preserve the competitive position of the Applicant, or of a proposed user, occupant or tenant of the Project, in its industry?

YES NO

2. Is the Project reasonably necessary to discourage the Applicant, or a proposed user, occupant or tenant of the Project, from removing such plant or facility to a location outside of the State of New York?

YES NO

3. Is there a likelihood that the proposed Project would not be undertaken by the Applicant but for the granting of the financial assistance by the Agency? (If yes, explain; if no, explain why the Agency should grant the financial assistance with respect to the proposed Project).

YES NO

4. The Applicant certifies that the provisions of Section 862(1) of the General Municipal Law will not be violated if financial assistance is provided by the Agency for the proposed Project.

YES NO

5. Is an environmental impact statement required by Article 8 of the N.Y. Environmental Conservation Law (i.e., the New York State Environmental Quality Review Act)? If "yes" please complete and attach to the Application.

YES NO

** Applicants should consult **Exhibit B** in order to determine which version of the New York State Environmental Assessment Form must be submitted with this Application.

6. Will customers personally visit the Project site for "retail sales" of Goods and/or Services? "Retail Sales" means (i) sales by a registered vendor under Article 28 of the Tax Law of the State primarily engaged in the retail sale of tangible personal property, as defined in section 1101(b)(4)(i) of the Tax Law of the State, or (ii) sales of a service to such customers.

Sales of Goods: YES NO
Sales of Services: YES NO

** If the answer to both is "No" please continue to the next page; if the answer to either is "Yes" please answer the four (4) remaining questions.

7. What percentage of the cost of the Project (including that portion of the cost to be financed from equity or sources other than Agency financing) will be expended on such facilities or property primarily used in making retail sales of goods or services to customers who personally visit the Project?

%

8. Is the Project likely to attract a significant number of visitors from outside the economic development region (i.e., Western New York) in which the Project is or will be located?

YES NO

9. Is the predominant purpose of the Project to make available goods or services which would not, but for the Project, be reasonably accessible to the residents of the city, town or village within which the Project will be located, because of a lack of reasonably accessible retail trade facilities offering such goods or services?

YES NO

10. Will the Project be located in one of the following: (a) an area designated as an empire zone pursuant to Article 18-B of the General Municipal Law; or (b) a census tract or block numbering area (or census tract or block numbering area contiguous thereto) which, according to the most recent census data, has (i) a poverty rate of at least 20% for the year in which the data relates, or at least 20% of the households receiving public assistance, and (ii) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates?

YES NO

This project is only financially reasonable if we have the IDA's help in avoiding the additional taxes as this project doesn't generate additional revenue, it's just to try to battle the rising costs of energy.

CERTIFICATIONS AND ACKNOWLEDGMENTS
OF THE APPLICANT

The undersigned, being duly sworn, deposes and says, under penalties of perjury, as follows: that I am the chief executive officer or other representative authorized to bind the Applicant named in the attached application for financial assistance ("Application") and that I hold the office specified below my signature at the end of this Certification and Agreement, that I am authorized and empowered to deliver this Certification and Agreement and the Application for and on behalf of the Applicant, that I am familiar with the contents of said Application (including all schedules, exhibits and attachments thereto), and that said contents are true, accurate and complete to the best of my knowledge and belief.

The grounds of my belief relative to all matters in the Application that are not based upon my own personal knowledge are based upon investigations I have made or have caused to be made concerning the subject matter of this Application, as well as upon information acquired in the course of my duties and from the books and records of the Applicant.

As an authorized representative of the Applicant, I acknowledge and agree on behalf of the Applicant that the Applicant hereby releases the County of Chautauqua Industrial Development Agency, its members, officers, servants, attorneys, agents and employees (collectively, the "Agency") from, agrees that the Agency shall not be liable for and agrees to indemnify, defend (with counsel selected by the Agency) and hold the Agency harmless from and against any and all liability, damages, causes of actions, losses, costs or expenses incurred by the Agency in connection with: (A) examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the financial assistance requested therein are favorably acted upon by the Agency, (B) the acquisition, construction, reconstruction, renovation, installation and/or equipping of the Project by the Agency, and (C) any further action taken by the Agency with respect to the Project; including, without limiting the generality of the foregoing, (i) all fees and expenses of the Agency's general counsel, bond counsel, economic development consultant, real property tax valuation consultant and other experts and consultants (if deemed necessary or advisable by the Agency), 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 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 find buyers willing to purchase the total bond issue required or is unable to secure other third party financing or otherwise fails to conclude the 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.

As an authorized representative of the Applicant, I acknowledge and agree on behalf of the Applicant that each of the Agency's general counsel, bond counsel, economic development consultant, real property tax valuation consultant and other experts and consultants is an intended third-party beneficiary of this Certification and Agreement, and that each of them may (but shall not be obligated to) enforce the provisions of the immediately preceding paragraph, 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.

FIRST:

The Applicant hereby certifies that, if financial assistance is provided by the Agency for the proposed project, no funds of the Agency (i) shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promotional materials which depict elected or appointed government officials in either print or electronic media, (ii) be given to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State

SECOND:

The Applicant hereby certifies that no member, manager, principal, officer or director of the Applicant or any affiliate thereof has any blood, marital or business relationship with any member of the Agency (or any member of the family of any member of the Agency).

THIRD:

The Applicant hereby certifies that neither the Applicant nor any of its affiliates, nor any of their respective partners, members, shareholders or other equity owners (other than equity owners of publicly-traded companies), nor any of their respective employees, officers, directors, or representatives (i) is a person or entity with whom United States persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control (OFAC) of the Department of the Treasury, including those named on OFAC's Specially Designated and Blocked Persons List, or under any statute, executive order or other governmental action, or (ii) has engaged in any dealings or transactions or is otherwise associated with such persons or entities.

FOURTH:

The Applicant hereby acknowledges that the Agency shall obtain and hereby authorizes the Agency to obtain credit reports and other financial background information and perform other due diligence on the Applicant and/or any other entity or individual related thereto, as the Agency may deem necessary to provide the requested financial assistance.

FIFTH:

The Applicant hereby certifies, under penalty of perjury, that 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.

SIXTH:

The Applicant hereby acknowledges that the submission to the Agency of any knowingly false or knowingly misleading information may lead to the immediate termination of any financial assistance and the recapture from the Applicant of an amount equal to all or any part of any tax exemption claimed by reason of the Agency's involvement in the Project.

SEVENTH:

The Applicant hereby certifies that, as of the date of this Application, 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.

EIGHTH:

Upon successful closing of the required bond issue or other form of financing or Agency assistance, the Applicant shall pay to the Agency an administrative fee set by the Agency (which amount is payable at closing) in accordance with the following schedule:

- (A) All Initial Transactions - One-Hundred basis points (1.00%) of Total Project Costs
 - a. This fee applies to all Initial Transactions except for certain small solar or wind energy systems or farm waste energy systems under RPTL §487, for which the Agency collects no fee (other than Counsel fees).
- (B) Refunding/Assumptions/Modifications: Agency fee shall be determined on a case-by-case basis.

The Agency's bond counsel fees and expenses are payable at closing and are based on the work performed in connection with the Project.

The Agency's bond counsel's fees, general counsel fee and the administrative fees may be considered as a cost of the Project and included as part of any resultant financing, subject to compliance with applicable law.

Regardless of the success of this Application or whether the hoped-for Financial Assistance is realized, Applicant agrees to pay all costs in connection with any efforts by the Agency on behalf of the Applicant including any fees and expenses of the Agency's general counsel, bond counsel, and all applicable recording, filing or other related fees, taxes and charges upon receipt and review of the Application, securing necessary approvals, closing the necessary transaction, and/or terminating any transaction entered into by the Applicant and the Agency.

NINTH:

The Applicant authorizes the Agency to make inquiry of the United States Environmental Protection Agency, the New York State Department of Environmental Conservation or any other appropriate federal, state or local governmental agency or authority as to whether the Project site or any property adjacent to or within the immediate vicinity of the Project site is or has been identified as a site at which hazardous substances are being or have been used, stored, treated, generated, transported, processed, handled, produced, released or disposed of. The Applicant will be required to secure the written consent of the owner of the Project site to such inquiries (if the Applicant is not the owner), upon request of the Agency.

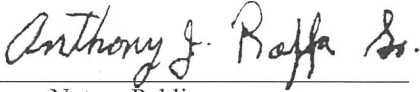
I further acknowledge and agree on behalf of the Applicant that, in the event the Agency shall have used all of its available tax-exempt bond financing allocation from the State of New York, if applicable, and shall accordingly be unable to obtain an additional allocation for the benefit of the Applicant, the Agency shall have no liability or responsibility as a result of the inability of the Agency to issue and deliver tax-exempt bonds for the benefit of the Applicant.



Name: Nick Bradish

Title: Owner

Subscribed and affirmed to me this 2
day of Oct, 2024



Notary Public
ANTHONY J. RAFFA, #01RA5062822
Notary Public, State of New York
Qualified in Chautauqua County
My Commission Expires July 8, 2026

The Agency's acceptance of this Application for consideration does not constitute a commitment on the part of the Agency to undertake the proposed Project, to grant any financial assistance with respect to the proposed Project, or to enter into any negotiations with respect to the proposed Project.

Information provided herein may be subject to disclosure under the New York Freedom of Information Law (New York Public Officers Law § 84 et seq.) ("FOIL"). If the Applicant believes that a portion of the material submitted with this Application is protected from disclosure under FOIL, the Applicant should mark the applicable section(s) or page(s) as "confidential" and state the applicable exception to disclosure under FOIL.

DATE

JRSC - Small Solar

1611 Foote Ave, Jamestown, NY 14701

Parcel ID(s) 404.00-2-17

Total Project Cost \$1,041,520

Years	Tax	PILOT	Savings	Savings with				
				PILOT Only				
1	\$2,880	0	\$2,880	\$2,880				
2	\$2,938	0	\$2,938	\$2,938	TOTAL MW (AC)		0.240	
3	\$2,996	0	\$2,996	\$2,996				
4	\$3,056	0	\$3,056	\$3,056			0	
5	\$3,117	0	\$3,117	\$3,117	PILOT		0	
6	\$3,180	0	\$3,180	\$3,180				
7	\$3,243	0	\$3,243	\$3,243			0	
8	\$3,308	0	\$3,308	\$3,308				
9	\$3,374	0	\$3,374	\$3,374				
10	\$3,442	0	\$3,442	\$3,442				
11	\$3,511	0	\$3,511	\$3,511				
12	\$3,581	0	\$3,581	\$3,581				
13	\$3,653	0	\$3,653	\$3,653				
14	\$3,726	0	\$3,726	\$3,726	PILOT Host split			Kiantone
15	\$3,800	0	\$3,800	\$3,800		TOWN	0	#DIV/0!
16						COUNTY	0	#DIV/0!
17						SCHOOL	0	#DIV/0!
18						TOTAL	0	#DIV/0!
19								
20						2024 TAX RATES		Jamestown
21						SCHOOL	19.266895	61%
22						COUNTY OF CHAUTAUQUA	9.659920	31%
23						TOWN	2.552621	8%
24						TOTAL	31.479436	100%
25								
Total	\$49,805	\$0	\$49,805	\$49,805				

Total PILOT Savings	\$49,805
Sales Tax from Application**	\$0
Mortgage Tax from Application	\$0
	\$0
SAVINGS	\$49,805

**Refer to application - portions NYS tax exempt

***Dependent on time and necessary requirements

All Estimates

Exhibit B

State Environmental Quality Review Act Compliance Checklist

The County of Chautauqua Industrial Development Agency (“CCIDA”), pursuant to the State Environmental Quality Review Act (“SEQRA”), must evaluate the environmental impacts of a project before deciding whether to undertake the project. The below checklist is intended to aid Applicants in determining which version of NYSDEC’s Environmental Assessment Form (“EAF”), available on NYSDEC’s website, to submit as a part of a complete application package to the CCIDA.

If one or more of the below items applies to the project, then a Full EAF must be prepared for submission. If none of the below items apply, then a Short EAF may be submitted. Please note that the below list is not exhaustive, and Applicants who have completed a short EAF may be required to fill out a Full EAF upon review of the project information by the CCIDA. Applicants should consult with their engineers and consultants to aid them in preparing the EAF.

Does the project involve:

- activities, other than the construction of residential facilities, that meet or exceed any of the following thresholds:
 - a project or action that involves the physical alteration of 10 acres?
 - a project or action that would use ground or surface water in excess of 2,000,000 gallons per day?
 - parking for 500 vehicles?
 - a facility with more than 100,000 square feet of gross floor area?
- the expansion of existing nonresidential facilities that meet or exceed any of the following thresholds:
 - a project or action that involves the physical alteration of 5 acres?
 - a project or action that would use ground or surface water in excess of 1,000,000 gallons per day?
 - parking for 250 vehicles?
 - a facility with more than 50,000 square feet of gross floor area?

activities which meet at least one of the criteria in **both** Columns A **and** B below:

○ Column A:

- occurring wholly or partially within an agricultural district certified by Agriculture and Markets?
- occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on the State or National Register of Historic Places, or has been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing?
- occurring wholly or partially within or substantially contiguous to any publicly owned or operated parkland, recreation area or designated open space, including any site on the Register of National Natural Landmarks?

○ Column B:

- activities, other than the construction of residential facilities, that meet or exceed any of the following thresholds:
 - a project or action that involves the physical alteration of 2.5 acres?
 - a project or action that would use ground or surface water in excess of 500,000 gallons per day?
 - parking for 125 vehicles?
 - a facility with more than 25,000 square feet of gross floor area?
- the expansion of existing nonresidential facilities that meet or exceed any of the following thresholds:
 - a project or action that involves the physical alteration of 1.25 acres?
 - a project or action that would use ground or surface water in excess of 250,000 gallons per day?
 - parking for 63 vehicles?
 - a facility with more than 12,500 square feet of gross floor area?

617.20
Appendix B
Short Environmental Assessment Form


Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information				
JRSC Digital Solar				
Name of Action or Project: JRSC Digital Solar				
Project Location (describe, and attach a location map): 1611 Foote Ave., Jamestown, NY 14701, Current site of JRSC Digital				
Brief Description of Proposed Action: Due to drastic increases in electric costs and expanded electrical needs as we expand our business we are adding solar to cut costs to stay competitive. In addition we are including battery storage to both reduce demand charges as well as protect our business from loss from frequent power outages. We are competing all over the county with competitors in other states with much lower taxes and energy costs.				
Name of Applicant or Sponsor: Jamestown Rubber Stamp Co., Inc (JRSC Digital)		Telephone: 7164848185		
		E-Mail: nick@jrscdigital.com		
Address: 1611 Foote Ave.				
City/PO: Jamestown		State: NY	Zip Code: 14701	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO	YES
			X	
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			NO	YES
building permit from Kiantone. Alaready approved				X
3.a. Total acreage of the site of the proposed action?		<u>8</u>	acres	
b. Total acreage to be physically disturbed?		<u>0.5</u>	acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		<u>118</u>	acres	
4. Check all land uses that occur on, adjoining and near the proposed action.				
<input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland				

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
		X	
b. Consistent with the adopted comprehensive plan?		X	
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
			X
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____ _____	NO	YES	
		X	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation service(s) available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	NO	YES	
		X	
		X	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO	YES	
		X	
10. Will the proposed action connect to an existing public/private water supply? [If Yes, does the existing system have capacity to provide service? <input type="checkbox"/> NO <input type="checkbox"/> YES] If No, describe method for providing potable water: _____ _____	NO	YES	
		X	
11. Will the proposed action connect to existing wastewater utilities? [If Yes, does the existing system have capacity to provide service? <input type="checkbox"/> NO <input type="checkbox"/> YES] If No, describe method for providing wastewater treatment: _____ _____	NO	YES	
		X	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? b. Is the proposed action located in an archeological sensitive area?	NO	YES	
		X	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO	YES	
		X	
		X	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input checked="" type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES	
		X	
16. Is the project site located in the 100 year flood plain?	NO	YES	
		x	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ _____	NO	YES	
		X	

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____ 7,911.41	NO	YES
	X	
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____ _____	NO	YES
	X	
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____ _____	NO	YES
	X	
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>Nick Bradish</u>	Date: <u>10-2-24</u>	
Signature: <u></u>		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept “Have my responses been reasonable considering the scale and context of the proposed action?”

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	X	
2. Will the proposed action result in a change in the use or intensity of use of land?	X	
3. Will the proposed action impair the character or quality of the existing community?	X	
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	X	
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	X	
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	X	
7. Will the proposed action impact existing: a. public / private water supplies?	X	
b. public / private wastewater treatment utilities?	X	
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	X	
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	X	

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	X	
11. Will the proposed action create a hazard to environmental resources or human health?	X	

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Name of Lead Agency	Date
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

Wells Enterprises, Inc. Due Diligence Resolution (2024 PILOT)

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on October 22, 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 _____ 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
Gregory L. Peterson, Esq.	Counsel

The attached resolution no. 10-22-24-02 was offered by _____, seconded by _____:

Resolution No. 10-22-24-02

RESOLUTION TAKING PRELIMINARY ACTION TOWARD THE
ACQUISITION AND STRAIGHT LEASING OF A CERTAIN PROJECT FOR WELLS
ENTERPRISES, INC. 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, Wells Enterprises, Inc. (including an entity to be formed for the purposes described herein, 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 retention of an interest in approximately 23 parcels of land aggregating approximately 18.3 acres located at 1 Ice Cream Drive, City of Dunkirk, County of Chautauqua, New York (the “Land”), (2) the construction of an approximately 133,000 square foot addition (the “Addition”) to the existing approximately 217,500 square foot building located on the Land (the “Existing Building” and together with the Addition, collectively, the “Building” and together with the Land, collectively, the “Facility”), together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the “Equipment”) necessary for the completion of the Addition (collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as a manufacturing facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the Addition in the form of potential exemptions or partial exemptions from real property taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an

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

WHEREAS, the Agency has given due consideration to the Application and to the representations made by the Applicant therein, in certain supplemental documents and at this meeting, including, without limitation, representations of the Applicant that: (A) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Applicant to undertake the Project in the County of Chautauqua, New York; (B) the completion of the Project and the leasing and operation of the Project Facility by the Applicant and/or its related designee will not result in the removal of a facility or plant of the Applicant, such related designee or any other occupant of the Project Facility from one area of the State of New York (the "State") to another area of the State or in the abandonment of one or more plants or facilities of the Applicant, such related designee or any other occupant of the Project Facility in the State but outside of the County of Chautauqua, New York; (C) 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 (D) 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, the Financial Assistance would not, if granted, represent a deviation from the Agency's uniform tax exemption policy and guidelines (the "Tax Exemption Policy") with respect to the making of payments in lieu of real property taxes; 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 and the Tax Exemption Policy relating to the Project and the Financial Assistance have been satisfied; and (B) the undertaking of the Project by the Agency and the granting of the Financial Assistance are and will be in compliance with all other applicable requirements of the Act, Article 8 of the Environmental Conservation Law (the "SEQR Act") and the regulations adopted pursuant thereto (the "Regulations" and together with the SEQR Act, collectively, "SEQRA"), and all other statutes, codes, laws, rules and regulations of any governmental authority having jurisdiction over the Project or the Project Facility (collectively, the "Applicable Laws"); and

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

WHEREAS, although a resolution authorizing the undertaking of the Project has not yet been submitted for approval by the Agency, a 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 of the Agency, prior to the granting of any Financial Assistance with respect to the Project: (A) to establish a time, date and place 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; (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; (E) to cause a report of the Public Hearing fairly summarizing the views presented at said Public Hearing to be promptly prepared and cause copies of said report to be made available to the members of the Agency; and (F) to otherwise comply with all other procedural and other requirements imposed on the Agency pursuant to Applicable Laws with respect to the Project and/or the Financial Assistance.

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

Section 3. Any expenses incurred by the Agency with respect to the Project 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 a 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 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.

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 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	VOTING
Bradley Walters	VOTING
Sagan Sheffield-Smith	VOTING
Dan Heitzenrater	VOTING
Kevin Muldowney	VOTING
Amy Harding	VOTING
Daniel DeMarte	VOTING
Tom Harmon	VOTING

The foregoing resolution was thereupon declared duly _____.

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 October 22, 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 22nd day of October, 2024.

[Assistant] Secretary

[Vice] Chairman

PRELIMINARY AGREEMENT

THIS PRELIMINARY AGREEMENT (this “Preliminary Agreement”) dated as of the 22nd day of October, 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 WELLS ENTERPRISES, INC., a corporation duly organized and existing under the laws of the State of Iowa and qualified to do business in the State of New York as a foreign corporation (the “Applicant”).

WITNESSETH:

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

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

WHEREAS, the Applicant presented a draft 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 retention of an interest in approximately 23 parcels of land aggregating approximately 18.3 acres located at 1 Ice Cream Drive, City of Dunkirk, County of Chautauqua, New York (the “Land”), (2) the construction of an approximately 133,000 square foot addition (the “Addition”) to the existing approximately 217,500 square foot building located on the Land (the “Existing Building” and together with the Addition, collectively, the “Building” and together with the Land, collectively, the “Facility”), together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the “Equipment”) necessary for the completion of the Addition (collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as a manufacturing facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the Addition in the form of potential exemptions or partial exemptions from real property taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the members of the Agency held a meeting on October 22, 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, construction, 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 does 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: (i) sales by a registered vendor under Article 28 of the New York Tax Law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of Section 1101 of the New York Tax Law; or (ii) sales of a service to such customers.

(D) The undertaking of the Proposed Project will not result in the removal of a facility or plant of the Applicant, 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 the Dunkirk Central School District and is not located within the boundaries of any other incorporated village or city.

(J) The Applicant plans to invest a total of at least \$175,000,000.00 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:

Wells Enterprises, Inc.
1 Blue Bunny Drive
Le Mars, IA 51031

Attn: Dick Kennedy

(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.

WELLS ENTERPRISES, INC.

COUNTY OF CHAUTAUQUA INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Name:
Title:

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

Dunkirk Solar One LLC Due Diligence Resolution

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on October 22, 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 _____ 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
Gregory L. Peterson, Esq.	Counsel

The attached resolution no. 10-22-24-03 was offered by _____, seconded by _____:

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

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

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

WHEREAS, DUNKIRK SOLAR ONE LLC, a limited liability company organized and existing under the laws of the New York, on behalf of itself and/or the principals of Dunkirk Solar One LLC and/or an entity 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 20.56 acre portion of a 29.5 acre parcel of land located at 3761 East Lake Road, Town of Dunkirk, County of Chautauqua, New York (the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on tracking steel structure, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 5.0 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 and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 7. From and after the execution and delivery of the Due Diligence Agreement, the officers, agents and employees of the Agency are hereby authorized, empowered and directed, acting individually or jointly, to proceed with the undertakings provided for therein on the part of the Agency, and are further authorized to do all such acts and things and to execute all such documents as may be necessary or convenient to carry out and comply with the terms and provisions of the Due Diligence Agreement as and when executed.

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

Section 9. The Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized and directed to distribute copies of this Resolution to the Applicant and to the affected tax jurisdictions to the extent required by Applicable Laws 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	VOTING
Bradley Walters	VOTING
Sagan Sheffield-Smith	VOTING
Dan Heitzenrater	VOTING
Kevin Muldowney	VOTING
Amy Harding	VOTING
Daniel DeMarte	VOTING
Tom Harmon	VOTING

The foregoing resolution was thereupon declared duly _____.

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 October 22, 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 22nd day of October, 2024.

[Assistant] Secretary

[Vice] Chairman

DUE DILIGENCE AGREEMENT

THIS DUE DILIGENCE AGREEMENT (this "Agreement") dated as of the 22nd day of October, 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 DUNKIRK SOLAR ONE LLC, a limited liability company organized and existing under the laws of the Delaware and qualified to do business in the State of New York as a foreign limited liability company (the "Applicant").

WITNESSETH:

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

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

WHEREAS, the Applicant presented an application for financial assistance (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Proposed Project") consisting of the following: (A)(1) the acquisition of an interest in an approximately 20.56 acre portion of a 29.5 acre parcel of land located at 3761 East Lake Road, Town of Dunkirk, County of Chautauqua, New York (the "Land"), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on tracking steel structure, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the "Improvements"), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the "Equipment" and together with the Land and the Improvements, collectively, the "Project Facility"), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 5.0 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 and sales and use taxes (collectively, the "Financial

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

WHEREAS, the members of the Agency held a meeting on October 22, 2024 and approved a resolution (the “Preliminary Due Diligence Resolution”) requiring the execution and delivery of this 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 and the prevention of economic deterioration in the County of Chautauqua (the “County”), the Proposed Project would constitute a commercial facility with a significant impact on the area in which it is situated, and would advance the Agency’s purposes by preventing economic deterioration in the County. Therefore, the Proposed Project would constitute a "project" within the meaning of the Act.

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

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

(D) The undertaking of the Proposed Project will not result in the removal of a facility or plant of the Applicant from one area of the State of New York to another area of the State of New York or in the abandonment of one or

more plants or facilities of the Applicant located in the State of New York (but outside the County). Therefore, the provisions of subdivision (1) of Section 862 of the Act would not be violated as a result of the granting of the Financial Assistance by the Agency to the Applicant.

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

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

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

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

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

(J) The Applicant plans to invest a total of at least \$11,697,215.99 in the Project Facility.

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

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

Article 2. Undertakings on the Part of the Agency.

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

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

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

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

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

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

Article 3. Undertakings on the Part of the Applicant.

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

Section 3.01. The Applicant hereby agrees to indemnify, defend (with counsel selected by the Agency) and hold the Agency (and its members, officers, agents, attorneys and employees) harmless from any and all liability, damages, causes of actions, losses, costs or expenses incurred by the Agency in connection with: (A) examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application, the Proposed Project or the Financial Assistance are favorably acted upon by the Agency, (B) the acquisition, construction, installation and equipping of the Project Facility, and (C) any further action taken by the Agency with respect to the Proposed Project; including, without limiting the generality of the foregoing, (i) all fees and expenses of the Agency’s general counsel, transaction counsel, economic development consultant, real property tax valuation consultant and other experts and consultants (if deemed necessary or advisable by the Agency) heretofore or hereafter incurred, and (ii) all

other expenses incurred by the Agency in defending any suits, actions or proceedings that may arise as a result of any of the foregoing. If, for any reason whatsoever, the Agency decides not to proceed with consideration of the Application or the proposed Project or the Applicant fails to conclude or consummate necessary negotiations or fails within a reasonable or specified period of time to take reasonable, proper or requested action or withdraws, abandons, cancels, or neglects the Application or if the Applicant is unable to secure third party financing, if required, or otherwise fails to conclude the Proposed Project, then upon presentation of an invoice by the Agency, its agents, attorneys or assigns, the Applicant shall pay to the Agency, its agents, attorneys or assigns, as the case may be, all fees and expenses reflected in any such invoice.

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

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

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

Article 4. General Provisions.

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

- (1) To the Agency:

County of Chautauqua Industrial Development Agency
201 West 3rd Street, Suite 115

Jamestown, NY 14701
Attn: Mark Geise

(2) To the Applicant:

Dunkirk Solar One LLC
800 Gessner Road, Suite 700
Houston, TX 77024
Attn: Matt Effler

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

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

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

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

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

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

DUNKIRK SOLAR ONE LLC

COUNTY OF CHAUTAUQUA INDUSTRIAL
DEVELOPMENT AGENCY

By: _____

Name:

Title:

By:  _____

Name: Richard E. Dixon

Title: CFO

[SIGNATURE PAGE TO DUE DILIGENCE AGREEMENT]

Dunkirk Solar Two LLC Due Diligence Resolution

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on October 22, 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 _____ 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
Gregory L. Peterson, Esq.	Counsel

The attached resolution no. 10-22-24-04 was offered by _____, seconded by _____:

Resolution No. 10-22-24-04

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

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

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

WHEREAS, DUNKIRK SOLAR TWO LLC, a limited liability company organized and existing under the laws of the New York, on behalf of itself and/or the principals of Dunkirk Solar Two LLC and/or an entity 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 21.14 acre portion of a 27.3 acre parcel of land located at 3761 East Lake Road, Town of Dunkirk, County of Chautauqua, New York (the “Land”), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on tracking steel structure, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the “Improvements”), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the “Equipment” and together with the Land and the Improvements, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 4.8 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 and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 7. From and after the execution and delivery of the Due Diligence Agreement, the officers, agents and employees of the Agency are hereby authorized, empowered and directed, acting individually or jointly, to proceed with the undertakings provided for therein on the part of the Agency, and are further authorized to do all such acts and things and to execute all such documents as may be necessary or convenient to carry out and comply with the terms and provisions of the Due Diligence Agreement as and when executed.

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

Section 9. The Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency are each hereby authorized and directed to distribute copies of this Resolution to the Applicant and to the affected tax jurisdictions to the extent required by Applicable Laws 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	VOTING
Bradley Walters	VOTING
Sagan Sheffield-Smith	VOTING
Dan Heitzenrater	VOTING
Kevin Muldowney	VOTING
Amy Harding	VOTING
Daniel DeMarte	VOTING
Tom Harmon	VOTING

The foregoing resolution was thereupon declared duly _____.

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 October 22, 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 22nd day of October, 2024.

[Assistant] Secretary

[Vice] Chairman

DUE DILIGENCE AGREEMENT

THIS DUE DILIGENCE AGREEMENT (this "Agreement") dated as of the 22nd day of October, 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 DUNKIRK SOLAR TWO LLC, a limited liability company organized and existing under the laws of the Delaware and qualified to do business in the State of New York as a foreign limited liability company (the "Applicant").

WITNESSETH:

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

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

WHEREAS, the Applicant presented an application for financial assistance (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Proposed Project") consisting of the following: (A)(1) the acquisition of an interest in an approximately 21.14 acre portion of a 27.3 acre parcel of land located at 3761 East Lake Road, Town of Dunkirk, County of Chautauqua, New York (the "Land"), (2) the acquisition, construction, installation, and equipping on the Land of: (i) solar photovoltaic modules mounted on tracking steel structure, (ii) inverters and transformers, (iii) underground and overhead electrical lines, (iv) fencing, and (v) a system of access roads, parking, landscaping and related improvements to the Land (collectively, the "Improvements"), and (3) the acquisition and installation of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the "Equipment" and together with the Land and the Improvements, collectively, the "Project Facility"), all of the foregoing for use by the Applicant and/or its affiliates as an approximately 4.8 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 and sales and use taxes (collectively, the "Financial

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

WHEREAS, the members of the Agency held a meeting on October 22, 2024 and approved a resolution (the “Preliminary Due Diligence Resolution”) requiring the execution and delivery of this 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 and the prevention of economic deterioration in the County of Chautauqua (the “County”), the Proposed Project would constitute a commercial facility with a significant impact on the area in which it is situated, and would advance the Agency’s purposes by preventing economic deterioration in the County. Therefore, the Proposed Project would constitute a "project" within the meaning of the Act.

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

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

(D) The undertaking of the Proposed Project will not result in the removal of a facility or plant of the Applicant from one area of the State of New York to another area of the State of New York or in the abandonment of one or

more plants or facilities of the Applicant located in the State of New York (but outside the County). Therefore, the provisions of subdivision (1) of Section 862 of the Act would not be violated as a result of the granting of the Financial Assistance by the Agency to the Applicant.

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

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

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

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

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

(J) The Applicant plans to invest a total of at least \$10,618,944.00 in the Project Facility.

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

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

Article 2. Undertakings on the Part of the Agency.

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

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

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

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

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

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

Article 3. Undertakings on the Part of the Applicant.

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

Section 3.01. The Applicant hereby agrees to indemnify, defend (with counsel selected by the Agency) and hold the Agency (and its members, officers, agents, attorneys and employees) harmless from any and all liability, damages, causes of actions, losses, costs or expenses incurred by the Agency in connection with: (A) examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application, the Proposed Project or the Financial Assistance are favorably acted upon by the Agency, (B) the acquisition, construction, installation and equipping of the Project Facility, and (C) any further action taken by the Agency with respect to the Proposed Project; including, without limiting the generality of the foregoing, (i) all fees and expenses of the Agency’s general counsel, transaction counsel, economic development consultant, real property tax valuation consultant and other experts and consultants (if deemed necessary or advisable by the Agency) heretofore or hereafter incurred, and (ii) all

other expenses incurred by the Agency in defending any suits, actions or proceedings that may arise as a result of any of the foregoing. If, for any reason whatsoever, the Agency decides not to proceed with consideration of the Application or the proposed Project or the Applicant fails to conclude or consummate necessary negotiations or fails within a reasonable or specified period of time to take reasonable, proper or requested action or withdraws, abandons, cancels, or neglects the Application or if the Applicant is unable to secure third party financing, if required, or otherwise fails to conclude the Proposed Project, then upon presentation of an invoice by the Agency, its agents, attorneys or assigns, the Applicant shall pay to the Agency, its agents, attorneys or assigns, as the case may be, all fees and expenses reflected in any such invoice.

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

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

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

Article 4. General Provisions.

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

- (1) To the Agency:

County of Chautauqua Industrial Development Agency
201 West 3rd Street, Suite 115

Jamestown, NY 14701
Attn: Mark Geise

(2) To the Applicant:

Dunkirk Solar Two LLC
800 Gessner Road, Suite 700
Houston, TX 77024
Attn: Matt Effler

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

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

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

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

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

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

DUNKIRK SOLAR TWO LLC

COUNTY OF CHAUTAUQUA INDUSTRIAL
DEVELOPMENT AGENCY

By: _____

Name:

Title:

By:  _____

Name: Richard E. Dixon

Title: CFO

[SIGNATURE PAGE TO DUE DILIGENCE AGREEMENT]