

FINAL APPROVING RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on May 8, 2015, at 9:00 a.m., at 44 West Bridge Street, Oswego, New York.

The meeting was called to order by the Chair and, upon the roll being duly called, the following members were:

PRESENT: Nick Canale, Jr., Donald H. Kunzwiler, Carolyn A. Rush,
H. Leonard Schick, Morris Sorbello and Gary T. Toth

ABSENT: None

ALSO PRESENT: Kevin C. Caraccioli, David S. Dano and L. Michael
Treadwell

The following resolution was duly offered and seconded:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS BY THE AGENCY IN CONNECTION WITH A CERTAIN PROJECT UNDERTAKEN AT THE REQUEST OF THE COMPANY

WHEREAS, the County of Oswego Industrial Development Agency (the “*Agency*”) is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the “*State*”), as amended, together with Chapter 234 of the Laws of 1973 of the State of New York, as amended from time to time (collectively, 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, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, 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 grant “financial assistance” (as defined in the Act) in connection with the acquisition, construction and equipping of one or more “projects” (as defined in the Act); and

WHEREAS, SolarCity Corporation, or an entity to be formed (the “*Company*”),

submitted an application to the Agency on or about March 11, 2015 (the “*Application*”), a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the “*Project*”) consisting of: (A) (i) the acquisition of a leasehold or other similar interest in an approximate 5 acre parcel of improved real property located at 3125 New York State Route 3, Town of Volney, New York, Oswego County (the “*Land*”); (ii) the installation of an approximate 2,593.5kW solar PV system (ground mount) containing approximately 155,000 square feet of panel footprint to be used for energy production (the “*Facility*”); and (iii) the acquisition of and installation in the Facility of various machinery, equipment and furnishings (the “*Equipment*” and together with the Land and Facility hereinafter collectively referred to as the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, mortgage recording tax and State and local sales and use taxation (collectively, the “*Financial Assistance*”); and (C) the lease, license or sublease of the Project Facility by the Agency pursuant to an appropriate agreement and the lease or sublease of the Project Facility back to the Company pursuant to a (sub)sublease agreement; and

WHEREAS, the Company also requested that the Agency consider a payment in lieu of tax (“*PILOT*”) schedule, and such schedule constitutes a deviation from the Agency’s Uniform Tax Exemption Policy (“*UTEF*”) established pursuant to Section 874(4) of the Act; and

WHEREAS, by letters dated April 24, 2015, the Agency gave to the chief executive officers of the affected tax jurisdictions notice pursuant to Section 874 of the Act of this meeting (the “*Notice*”), at which the Agency would consider the Company’s request for a PILOT schedule which deviates from the UTEP; and

WHEREAS, the Agency conducted a public hearing with respect to the Project and the proposed Financial Assistance on May 7, 2015 pursuant to Section 859-a of the Act, notice of which was published on April 25, 2015 in the Palladium Times, a newspaper of general circulation in the County of Oswego, New York and given to the chief executive officers of the affected tax jurisdictions by letter dated April 24, 2015; and

WHEREAS, the Agency adopted a resolution on March 24, 2015 (the “*Initial Resolution*”) entitled:

RESOLUTION DETERMINING THAT THE ACQUISITION, INSTALLATION AND EQUIPPING OF A COMMERCIAL FACILITY AT THE REQUEST OF THE COMPANY CONSTITUTES A PROJECT; DESCRIBING THE FINANCIAL ASSISTANCE REQUESTED IN CONNECTION THEREWITH AND AUTHORIZING A PUBLIC HEARING

which resolution is in full force and effect and has not been amended or modified;

WHEREAS, the Agency adopted a resolution on May 8, 2015 (the “*SEORA Resolution*”) entitled:

RESOLUTION CLASSIFYING A CERTAIN PROJECT AS AN UNLISTED ACTION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT AND DETERMINING THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT

which resolution is in full force and effect and has not been amended or modified;

WHEREAS, the Agency adopted a resolution on May 8, 2015 (the “*Inducement Resolution*”) entitled:

RESOLUTION UNDERTAKING THE ACQUISITION, CONSTRUCTION, INSTALLATION AND EQUIPPING OF A CERTAIN PROJECT, APPOINTING THE COMPANY AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, INSTALLATION AND EQUIPPING OF THE PROJECT; APPROVING FINANCIAL ASSISTANCE IN THE FORM OF EXEMPTIONS FROM REAL PROPERTY TAX, STATE AND LOCAL SALES AND USE TAX AND MORTGAGE RECORDING TAX; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BETWEEN THE AGENCY AND THE COMPANY

which resolution is in full force and effect and has not been amended or modified;

WHEREAS, the Agency adopted a resolution on May 8, 2015 (the “*PILOT Resolution*”) entitled:

RESOLUTION APPROVING A PAYMENT IN LIEU OF TAX SCHEDULE AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS BY THE AGENCY IN CONNECTION WITH A CERTAIN PROJECT UNDERTAKEN AT THE REQUEST OF THE COMPANY

which resolution is in full force and effect and has not been amended or modified.

NOW, THEREFORE, be it resolved by the members of the County of Oswego Industrial Development Agency, as follows:

Section 1. It is the policy of the State to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation and economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration. It is among the purposes of the Agency to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving,

maintaining, equipping and furnishing of certain facilities, including commercial facilities, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their recreation opportunities, prosperity and standard of living.

Section 2. Based upon the representations and projections made by the Company to the Agency and after considering those representations, the Agency hereby makes the following determinations:

- a) Ratifies the findings in its Initial, SEQRA, Inducement and PILOT Resolutions.
- b) The granting of the Financial Assistance will be an inducement to the Company to develop the Project Facility in the Town of Volney, County of Oswego.
- c) The commitment of the Agency to provide Financial Assistance to the Company will enable the Company to construct, install and equip the Project Facility, provide advance employment opportunities and ensure the continued physical and financial viability of the Project.
- d) The acquisition, construction, installation and equipping of the Project Facility will promote employment opportunities and help prevent economic deterioration in the Town of Volney and County of Oswego by reducing the annual energy costs of the County of Oswego thereby freeing funds needed to reduce tax burdens and or increase services all for the benefit of the residents of the County of Oswego, and will assist in making the County of Oswego more competitive for new business investment.
- e) the creation and/or preservation of both full and part-time jobs.
- f) The construction, installation, equipping and operation of the Project Facility and the attendant promotion of the local economy will advance the job opportunities, health, prosperity and economic welfare of the people of the County of Oswego and the granting of the other Financial Assistance is a necessary component to the financing of the Project.
- g) The Project will not result in the removal of any commercial, industrial or manufacturing plant or facility of the Company or of any other proposed occupant of the Project Facility from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act.

Section 3. Subject to the conditions set forth in Section 4.02 of the Agreement (as that term is defined in the Inducement Resolution) and the Inducement Resolution, the Agency will: (Ai) acquire a controlling interest or license in the Land and Facility pursuant to an agreement (the “*License*”) and accept an interest in the Equipment pursuant to a bill of sale from the Company (the “*Bill of Sale*”); (B) lease or sublease of the Project Facility back to the Company pursuant to

a (sub)lease agreement (the “**Sublease**” and together with the License, the Bill of Sale and any other certificates and documents deemed necessary by the Agency to undertake the Project, collectively, the “**Lease Documents**”) to be entered into between the Agency and the Company; (C) secure the Company’s borrowings with respect to the Project Facility, by joining in one or more construction or permanent mortgages on the Project Facility in favor of the Agency and/or Company’s lender(s), in such form and substance as shall be consistent with this resolution and approved by the Chief Executive Officer or (Vice) Chairperson of the Agency upon the advice of counsel to the Agency and pledging and assigning to such lender(s), if any, certain rights and remedies of the Agency under the sublease agreement by the execution and delivery of a pledge and assignment which shall be consistent with this resolution and approved by the Chief Executive Officer or (Vice) Chairperson of the Agency upon the advice of counsel to the Agency; (D) execute and deliver a payment in lieu of tax agreement (“**PILOT Agreement**”) providing for the payment schedule approved by the Agency pursuant to the PILOT Resolution, and (E) execute and deliver any other documents necessary to effectuate the transactions contemplated by and consistent with this Resolution upon the advice of counsel to the Agency.

Section 4. The Chief Executive Officer and/or (Vice) Chairperson are each hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the documents and agreements identified herein and any such additional certificates, instruments, documents or affidavits, to pay any such other fees, charges and expenses, to make such other changes, omissions, insertions, revisions, or amendments to the documents referred to herein and to do and cause to be done any such other acts and things, as they determine, on advice of counsel to the Agency, may be necessary or desirable to consummate the transactions contemplated by this Resolution. The execution thereof by the Chief Executive Officer or (Vice) Chairperson shall constitute conclusive evidence of such approval.

Section 5. No covenant, stipulation, obligation or agreement contained in this Resolution or any document referred to above shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

Section 6. A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

Section 7. The Chief Executive Officer of the Agency is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 8. Counsel to the Agency and special Agency counsel are hereby authorized to work with the Company, and others to prepare, for submission to the Agency, all documents necessary to effect the grant of Financial Assistance and to consummate the transactions

contemplated by this Resolution.

Section 9. This Resolution shall take effect immediately.

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

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>	<u>Recuse</u>
Nick Canale, Jr.	X				
Donald H. Kunzwiler	X				
Carolyn A. Rush	X				
H. Leonard Schick	X				
Morris Sorbello	X				
Gary T. Toth	X				

The resolution was thereupon declared duly adopted.

