

RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency (the “*Agency*”) was convened in public session on June 21, 2012 at 9:00 a.m., at 44 West Bridge Street, Oswego, New York.

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

Present: Donald H. Kunzwiler, H. Leonard Schick,
Morris Sorbello and Gary T. Toth

Absent: Jonathan Daniels, Arthur W. Ospelt and Carolyn A. Rush

Also Present: Kevin C. Caraccioli, David S. Dano, Robert J. Easterly,
and L. Michael Treadwell

The following resolution was duly offered and seconded:

RESOLUTION APPROVING AN AMENDMENT TO A CERTAIN PAYMENT IN LIEU OF TAX AGREEMENT AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS BY THE AGENCY IN CONNECTION THEREWITH

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 acquire, lease, and sell real property and grant financial assistance in connection with one or more “projects” (as defined in the Act); and

WHEREAS, Erie Boulevard Hydropower, L.P., a Delaware limited partnership,

authorized to conduct business in the State of New York (the “*Company*”) previously submitted an application to the Agency which culminated in resolutions dated February 23, 2005 and April 29, 2005 granting to the Company financial assistance (“*Financial Assistance*”) including exemptions to real property tax (“*PILOT*”), in connection with a project (“*Project*”) consisting of: (i) the acquisition of a leasehold interest in approximately 909 acres of improved real property located in the Town of Orwell, County of Oswego, State of New York and identified as tax parcel number 075.00-01-01.0 and commonly known as Bennetts Bridge and tax parcel number 089.00-01-02.0 commonly known as Lighthouse Hill (collectively, the “*Facilities*”), the improvement of the Facilities, and the acquisition and installation of certain machinery, equipment and other personal property (collectively, the “*Equipment*”) in the Facilities (the Facilities and the Equipment hereinafter collectively referred to as the “*Project Facility*”), and (ii) the conveyance of a leasehold interest in the Project Facility to the Company to maintain the operation of the Project Facility in Oswego County, to preserve the competitive position of the Company in the deregulated electric generation industry, to induce continued capital investment by the Company in the Project Facility, and to preserve the permanent private sector jobs currently existing at the Project Facility.

WHEREAS, the Agency and the Company entered into a Payment in Lieu of Taxes Agreement dated as of February 1, 2005, which was thereafter amended by a certain Amended and Restated Payment in Lieu of Tax Agreement dated as of March 31, 2005;

WHEREAS, the Agency is now considering the Company’s request to modify certain of the Financial Assistance previously granted and more specifically the PILOT, by extending its term for one year and increasing certain payments thereunder (the “*Additional Financial Assistance*”);

WHEREAS, pursuant to SEQRA, the Agency is required to make a determination with respect to the environmental impact of any “action” (as defined by SEQRA) to be taken by the Agency and the approval of the Additional Financial Assistance constitutes such an action; and

WHEREAS, by resolution dated February 23, 2005, the Agency classified the Project as a “Type 1 Action”, determined that the Project will not have a significant adverse impact on the environment and issued a negative declaration under SEQRA (the “*2005 Negative Declaration*”); and

WHEREAS, the Additional Financial Assistance now being considered by the Agency does not amount to a significant change in the Project, and therefore further review under SEQRA and amendment of the Agency’s 2005 Negative Declaration shall not be required; and

WHEREAS, the Agency has given due consideration to the request to amend the PILOT Agreement and to representations by the Company that the Additional Financial Assistance is required in order to ensure ongoing stability to the Project and the taxing jurisdictions; and

WHEREAS, the Agency has scheduled a public hearing for June 25, 2012 to hear all persons with views on the proposed Additional Financial Assistance (the “*Public Hearing*”); and

WHEREAS, all of the taxing jurisdictions have consented to the proposed Additional Financial Assistance.

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. The Agency ratifies all prior resolutions passed in connection with this proposed Project.

Section 3. Based upon the representations made by the Company to the Agency, the Agency hereby makes the following findings and determinations. The Additional Financial Assistance does not amount to a significant change in the Project, and therefore further review under SEQRA and amendment of the Agency's 2005 Negative Declaration is not be required.

Section 4. Based upon the representations made by the Company to the Agency, and the reasons presented by the Company in support of its request for the Amended PILOT Agreement, and upon consent of all taxing jurisdictions and subject to consideration of correspondence and oral comments, if any, received, the Amended PILOT Agreement and the execution and delivery of necessary documents to effectuate the granting of the Additional Financial Assistance, are hereby approved; subject to: (i) the holding of the Public Hearing and the dissemination of any and all comments made at such Public Hearing to the board within six (6) hours of such Public Hearing; and (ii) the Chief Executive Officer receiving no objections from any board member within twelve (12) hours of receiving any such comments from the Public Hearing; and (iii) the conditions set forth in Section 4 hereof.

Section 5. The execution of the Second Amended and Restated PILOT Agreement is conditioned upon, among other things, the Agency and the Company's execution of any documents necessary to effectuate the granting of the Additional Financial Assistance; and (ii) the payment by the Company of any and all administrative fees to the Agency as well as the Agency's legal fees with respect to the Additional Financial Assistance.

Section 6. 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 7. The Chairperson or Chief Executive Officer 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 and documents, 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.

Section 8. A copy of this Resolution shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

Section 9. 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 as well as all previously approved Resolutions.

Section 10. 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.

Section 11. 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>
Jonathan Daniels				X
Donald H. Kunzwiler	X			
Arthur W. Ospelt				X
Carolyn A. Rush				X
H. Leonard Schick	X			
Morris Sorbello	X			
Gary T. Toth	X			

The resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) ss.:
COUNTY OF OSWEGO)

I, the undersigned Chief Executive Officer of the County of Oswego Industrial Development Agency, **Do Hereby Certify** that (i) I have compared the annexed extract of the minutes of the meeting of the County of Oswego Industrial Development Agency (the “*Agency*”) held on June 21, 2012, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I Further Certify that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Agency on June 21, 2012.

L. Michael Treadwell
Chief Executive Officer

(SEAL)