

MINUTES
COUNTY OF OSWEGO INDUSTRIAL DEVELOPMENT AGENCY
February 23, 2023
44 West Bridge St.
Oswego, NY

PRESENT: Greco, Schick, Stahl, Toth and Trimble

Absent/Excused: Canale and Peter-Clark

Also Present: Peter McAuliffe, Chris Ross, Nancy Vlahos, Kevin LaMontagne CFO, Austin Wheelock CEO, and Kevin Caraccioli (COIDA legal counsel)

Chair Toth convened the meeting at 9:06AM at the IDA office in Oswego, NY.

MINUTES

On a motion by Mr. Greco, seconded by Mr. Stahl, the minutes of the January 25, 2023 meeting were approved.

NOTICE OF MEETING

Meeting notices were posted at the Oswego County Building, the IDA Office Building and on the IDA website. A notice was published in The Palladium Times on February 11, 2023.

TREASURER'S REPORT

On a motion by Mr. Schick, seconded by Mr. Trimble, the Financial Statements for the period ended September 30, 2022 were approved.

OSWEGO PV, LLC

Following a review of the Cost/Benefit Analysis of the 3 MW solar renewable energy project to be located on an approximately 22.44-acre site in the Town of Oswego and a review of the Public Hearing held on February 21, 2023, on a motion by Mr. Trimble, seconded by Mr. Schick, a Resolution was approved classifying a certain project as a Type I Action as determined by the Town of Oswego Planning Board and the Agency, in recognition of the fact that it would have been an involved agency and consented to the Planning Board's lead agency status, hereby reaffirms, accepts and adopts the Negative Declaration that was issued by the Planning Board for the project. The SEQRA Resolution is attached.

On a motion by Mr. Stahl, seconded by Mr. Greco, a Resolution authorizing the undertaking of the acquisition, construction, installation, equipping and completion of a certain project, appointing Oswego PV, LLC ("The Company") as Agent of the Agency for the purpose of the acquisition, construction, installation, equipping and completion of the project; approving certain financial assistance; and authorizing the execution and delivery of an Agreement between the Agency and The Company was approved. The Inducement Resolution is attached.

On a motion by Mr. Schick, seconded by Mr. Trimble, a Resolution approving a PILOT 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 was approved. The PILOT Resolution is attached.

On a motion by Mr. Greco, seconded by Mr. Stahl, a Resolution authorizing the execution and delivery of certain documents by the Agency in connection with a project undertaken at the request of the Company was approved. The Final Approving Resolution is attached.

VOLNEY PV, LLC

Following a review of the Cost/Benefit Analysis of the 5 MW solar renewable energy project to be located on an approximately 34.6-acre site in the Town of Volney and a review of the Public Hearing held on February 21, 2023, on a motion by Mr. Stahl, seconded by Mr. Greco, a Resolution was approved classifying a certain project as a Type I Action as determined by the Town of Volney Planning Board and the Agency, in recognition of the fact that it would have been an involved agency and consented to the Planning Board's lead agency status, hereby reaffirms, accepts and adopts the Negative Declaration that was issued by the Planning Board for the project. The SEQRA Resolution is attached.

On a motion by Mr. Trimble, seconded by Mr. Greco, a Resolution authorizing the undertaking of the acquisition, construction, installation, equipping and completion of a certain project, appointing Volney PV, LLC ("The Company") as Agent of the Agency for the purpose of the acquisition, construction, installation, equipping and completion of the project; approving certain financial assistance; and authorizing the execution and delivery of an Agreement between the Agency and The Company was approved. The Inducement Resolution is attached.

On a motion by Mr. Schick, seconded by Mr. Trimble, a Resolution approving a PILOT 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 was approved. The PILOT Resolution is attached.

On a motion by Mr. Toth, seconded by Mr. Stahl, a Resolution authorizing the execution and delivery of certain documents by the Agency in connection with a project undertaken at the request of the Company was approved. The Final Approving Resolution is attached.

VOLNEY II PV, LLC

Following a review of the Cost/Benefit Analysis of the 4.85 MW solar renewable energy project to be located on an approximately 29.7-acre site in the Town of Volney and a review of the Public Hearing held on February 21, 2023, on a motion by Mr. Greco, seconded by Mr. Trimble, a Resolution was approved classifying a certain project as a Type I Action as determined by the Town of Volney Planning Board and the Agency, in recognition of the fact that it would have been an involved agency and consented to the Planning Board's lead agency status, hereby reaffirms, accepts and adopts the Negative Declaration that was issued by the Planning Board for the project. The SEQRA Resolution is attached.

On a motion by Mr. Greco, seconded by Mr. Toth, a Resolution authorizing the undertaking of the acquisition, construction, installation, equipping and completion of a certain project, appointing Volney II PV, LLC (“The Company”) as Agent of the Agency for the purpose of the acquisition, construction, installation, equipping and completion of the project; approving certain financial assistance; and authorizing the execution and delivery of an Agreement between the Agency and The Company was approved. The Inducement Resolution is attached.

On a motion by Mr. Schick, seconded by Mr. Stahl, a Resolution approving a PILOT 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 was approved. The PILOT Resolution is attached.

On a motion by Mr. Stahl, seconded by Mr. Greco, a Resolution authorizing the execution and delivery of certain documents by the Agency in connection with a project undertaken at the request of the Company was approved. The Final Approving Resolution is attached.

TDJ PROPERTIES, LLC

Following a review of the Cost/Benefit Analysis of the project that includes the reconstruction and renovation of an existing building totaling approximately 786,600 square feet located on 67 acres in the Town of Volney for the use as offices, manufacturing and warehousing space for business tenants in the semi-conductor supply chain and other industries, and a review of the Public Hearing held on January 23, 2023, on a motion by Mr. Stahl, seconded by Mr. Greco, a Resolution classifying a certain project as a Type I Action and determining the Project will not result in any significant adverse environmental impacts, the Agency hereby issues and adopts a negative declaration pursuant to SEQRA. The SEQRA Resolution is attached.

On a motion by Mr. Trimble, seconded by Mr. Greco, a Resolution authorizing the undertaking of the acquisition, construction, installation, equipping and completion of a certain project, appointing TDJ Properties, LLC (“The Company”) as Agent of the Agency for the purpose of the acquisition, construction, installation, equipping and completion of the project; approving certain financial assistance; and authorizing the execution and delivery of an Agreement between the Agency and The Company was approved. The Inducement Resolution is attached.

On a motion by Mr. Schick, seconded by Mr. Greco, a Resolution approving a PILOT 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 was approved. The PILOT Resolution is attached.

On a motion by Mr. Greco, seconded by Mr. Trimble, a Resolution authorizing the execution and delivery of certain documents by the Agency in connection with a project undertaken at the request of the Company was approved. The Final Approving Resolution is attached.

FULTON THERMAL CORPORATION

Following a motion by Mr. Schick, seconded by Mr. Trimble, a Resolution authorizing the modification of Interest Rate Index from LIBOR to SOFR was approved. The Resolution is attached.

REAPPOINTMENT OF IDA MEMBERS

Mr. Wheelock provided an update that the full list of COIDA Board members was reappointed by the County of Oswego Legislature in January and that all required paperwork was filed by the County of Oswego and New York State Department of State as required.

EXECUTIVE SESSION

On a motion by Mr. Greco, seconded by Mr. Trimble, it was approved to go into Executive Session to discuss the financial history of a particular corporation or individual, pending litigation and contractual matters at 10:57 a.m.

On a motion by Mr. Greco, seconded by Mr. Stahl, it was approved to exit the Executive Session at 12:05 p.m.

COIDA ADMINISTRATIVE SERVICES CONTRACT RENEWAL

Following a review of the proposed administrative contract renewal in Executive Session, a motion was made by Mr. Schick, seconded by Mr. Greco to approve the contract for a two period and to also include financial reporting as an additional contractual service.

PILOT EDF REPORT

Mr. LaMontagne provided the Report for January 31, 2023 in Executive Session. Following a motion by Mr. Stahl, seconded by Mr. Greco, the PILOT EDF Report was approved.

DELINQUENT LOAN REPORT

Following a review by Mr. LaMontagne in Executive Session, on a motion by Mr. Stahl, seconded by Mr. Greco, the Delinquent Loan Report was approved.

OTHER BUSINESS

No other business was discussed.

NEXT MEETING

Thursday March 23rd at 9:00 a.m. was scheduled.

ADJOURNMENT

On a motion by Mr. Greco, seconded by Mr. Toth, the meeting was adjourned at 12:08 p.m.

Respectfully Submitted,

H. Leonard Schick, Secretary

SEQRA RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on February 23, 2023, at 9:00 a.m. local time, 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: Marc Greco, H. Leonard Schick, Tim Stahl, Gary T. Toth, and Barry Trimble

ABSENT: Nick Canale, Jr, and Tricia Peter-Clark

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and Austin Wheelock

The following resolution was duly offered and seconded:

RESOLUTION CLASSIFYING A CERTAIN PROJECT AS A TYPE 1 ACTION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT AND DETERMINING THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT ADVERSE EFFECT ON THE ENVIRONMENT

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, reconstruction, renovation, installation and equipping of one or more “projects” (as defined in the Act); and

WHEREAS, Oswego PV, LLC, a Delaware limited liability company, or an entity formed or to be formed (the “**Company**”) submitted an application to the Agency on or about October 5, 2022 (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 interest (or sub-leasehold interest) in all or a portion of approximately 78.31 acres of real property located at 447 County Route 20 (tax map no. 164.00-06-02.08) in the Town of Oswego, County of Oswego, State of New York (the “**Land**”); (ii) the construction on the Land of an approximately 22.44 acre solar power electric generating photovoltaic system, including, but not limited to, solar panels, inverters, transformer, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Facility**”); and (iii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Equipment**”) (the Land, the Facility and Equipment are hereinafter collectively referred to as the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer tax, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax (collectively, the “**Financial Assistance**”); and (C) the lease (or sub-lease) of the Land and the Facility by the Company (and/or the owner of the Land) to the Agency pursuant to a lease agreement; the acquisition by the Agency of an interest in the Equipment pursuant to a bill of sale from the Company; and the sublease of the Project Facility back to the Company (and/or the owner of the Land) pursuant to a sublease agreement; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “**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 Project and grant of Financial Assistance constitute such an action; and

WHEREAS, to aid in the determination of whether the Project may have a significant effect upon the environment, the Company prepared an Environmental Assessment Form (the “**EAF**”); and

WHEREAS, the Town of Oswego Planning Board (“**Planning Board**”) previously classified the Project as a Type 1 action under SEQRA and acted as lead agency for the purpose of conducting an environmental review of the Project; and

WHEREAS, after conducting a thorough review of the Project and its potential effects, the Planning Board determined that the Project would not result in any significant adverse environmental impacts and issued a negative declaration (“**Negative Declaration**”) for the Project on January 16, 2023; and

WHEREAS, the Agency’s involvement in the Project was unknown or was not anticipated when the Planning Board performed the SEQRA review and issued the Negative Declaration for the Project; and

WHEREAS, had the Agency's involvement been known at the time the Planning Board conducted its environmental review of the Project, the Agency would have, as an involved agency, consented to the Planning Board's lead agency status and been bound by the Negative Declaration that was issued for the Project; and

WHEREAS, the Project has not changed since the issuance of the Negative Declaration.

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

Section 1. Based upon an examination of the EAF prepared by the Company, the criteria contained in 6 NYCRR §617.7(c), and based further upon the Agency's knowledge of the area surrounding the Project Facility, all the representations made by the Company in connection with the Project, and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings and determinations with respect to the Project pursuant to SEQRA:

(a) The Project consists of the components described above in the third whereas clause of this resolution;

(b) The Project constitutes a "Type 1" action (as said quoted term is defined in SEQRA) as determined by the Planning Board;

(c) The Agency, in recognition of the fact that it would have been an involved agency and consented to the Planning Board's lead agency status, hereby reaffirms, accepts and adopts the Negative Declaration that was issued by the Planning Board for the Project, attached hereto as **Exhibit "A"**, which shall be filed in the office of the Agency in a file that is readily accessible to the public.

Section 2. 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 3. 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	
Tricia Peter-Clark				X	
Marc Greco	X				
Tim Stahl	X				
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble	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 February 23, 2023, 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 Article 7 of the Public Officers Law (the “**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 Open Meetings Law, (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 February 23, 2023.

Austin Wheelock
Chief Executive Officer

(SEAL)

EXHIBIT A
NEGATIVE DECLARATION

INDUCEMENT RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on February 23, 2023 at 9:00 a.m. local time, 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: Marc Greco, H. Leonard Schick, Tim Stahl, Gary T. Toth, and Barry Trimble

ABSENT: Nick Canale, Jr. and Tricia Peter-Clark

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and Austin Wheelock

The following resolution was duly offered and seconded:

RESOLUTION AUTHORIZING THE UNDERTAKING OF THE ACQUISITION, CONSTRUCTION, INSTALLATION, EQUIPPING AND COMPLETION OF A CERTAIN PROJECT, APPOINTING OSWEGO PV, LLC (THE “COMPANY”) AS AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, INSTALLATION, EQUIPPING AND COMPLETION OF THE PROJECT; APPROVING CERTAIN FINANCIAL ASSISTANCE; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BETWEEN THE AGENCY AND 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, 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, construct, reconstruct and install “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, Oswego PV, LLC, a Delaware limited liability company, or an entity formed or to be formed by it or on its behalf (the “**Company**”), submitted an application to the Agency on or about October 5, 2022 (the “**Application**”), a copy of which is on file at the office of the Agency, requesting the Agency consider undertaking a project (the “**Project**”) consisting of: (A) (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 78.31 acres of real property located at 447 County Route 20 (tax map no. 164.00-06-02.08) in the Town of Oswego, County of Oswego, State of New York (the “**Land**”); (ii) the construction on the Land of an approximately 22.44 acre solar power electric generating photovoltaic system, including, but not limited to, solar panels, inverters, transformer, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Facility**”); and (iii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Equipment**”) (the Land, the Facility and Equipment are hereinafter collectively referred to as the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer tax, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax (collectively, the “**Financial Assistance**”); and (C) the lease (or sub-lease) of the Land and the Facility by the Company (and/or the owner of the Land) to the Agency pursuant to a lease agreement; the acquisition by the Agency of an interest in the Equipment pursuant to a bill of sale from the Company; and the sublease of the Project Facility back to the Company (and/or the owner of the Land) pursuant to a sublease agreement; and

WHEREAS, the owner of the Land is Constance Simmons and the operator of the Project Facility will be the Company; and

WHEREAS, the Agency adopted a resolution on January 25, 2023 describing the Project, the Financial Assistance and authorizing a public hearing (the “**Initial Resolution**”); and

WHEREAS, the Agency conducted a public hearing (the “**Public Hearing**”) with respect to the Project and the proposed Financial Assistance on February 21, 2023 pursuant to Section 859-a of the Act, notice of which was published on February 9, 2023 in The Post Standard, a newspaper of general circulation in the County of Oswego, New York; and

WHEREAS, in accordance with the requirements of Section 859-a of the Act, written notice of the Public Hearing dated February 7, 2023 and a certified copy of the Initial Resolution was delivered by the Agency by certified mail, return receipt requested, to the chief executive officer of each affected local taxing jurisdiction, including the school board and district superintendent of the Oswego City School District;

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “**SEQRA**”), the Town of Oswego Planning Board (the “**Planning Board**”) previously classified the Project as a Type 1 action under SEQRA, acted as lead agency for the purpose of conducting an environmental review of the Project, and issued a negative declaration for the Project on January 16, 2023; and

WHEREAS, the Agency’s involvement in the Project was unknown or was not anticipated when the Planning Board performed the SEQRA review and issued the negative declaration for the Project; and

WHEREAS, on February 23, 2023, the Agency, in recognition of the fact that, had the Agency’s involvement in the Project been contemplated, it would have been an involved agency and consented to the Planning Board’s lead agency status, affirmed and adopted the negative declaration issued by the Planning Board for the Project, thereby concluding the Agency’s obligations under SEQRA (the “**SEQRA Resolution**”); and

WHEREAS, the Agency has considered the policy, purposes and requirements of the Act in making its determinations with respect to taking official action regarding the Project; and

WHEREAS, for purposes of exemption from State sales and use taxation as part of the Financial Assistance requested by the Company, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight; and

WHEREAS, the Agency has given due consideration to the Application and to representations by the Company that the provision of Financial Assistance: (i) will induce the Company to develop the Project Facility in the Town of Oswego, County of Oswego; (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or 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; and (iii) will induce the Company to undertake the Project which will serve the purposes of the Act by advancing the health, general prosperity and economic welfare of the people of the State;

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 health, 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 Resolution and SEQRA Resolution.
- B. The Project constitutes a “project” within the meaning of the Act.
- C. The granting of the Financial Assistance will be an inducement to the Company to develop the Project in the Town of Oswego, County of Oswego. The Financial Assistance consists solely of exemptions from real estate transfer taxes, real property taxes, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax.
- D. The commitment of the Agency to provide the Financial Assistance to the Company will enable the Company to acquire, construct, install, equip and complete the Project Facility.
- E. The acquisition, construction, installation, equipping and completion of the Project Facility will help prevent economic deterioration and advance the health, general prosperity and economic welfare of the people of the State.
- F. The acquisition of a controlling interest in the Project Facility by the Agency, the designation of the Company as the Agency’s agent for the acquisition, construction, installation, equipping and completion of the Project and the granting of the Financial Assistance will be an inducement to the Company to acquire, construct, install, equip and complete the Project Facility in the Town of Oswego, County of Oswego, and will serve the purposes of the Act by, among other things, advancing the general prosperity and economic welfare of the inhabitants of the County of Oswego; and the granting of the Financial Assistance will assist in financing the costs of the acquisition, construction, installation, equipping and completion of the Project Facility.
- G. The Project will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or result 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 terms of this Resolution, the conditions set forth in Section 4.02 of the Agreement (as defined herein), the Agency’s approval of the PILOT schedule and the execution and delivery of the Project Agreement (as defined herein), the Agency will: (i) acquire a

controlling interest in the Land and Facility pursuant to a lease agreement (and/or sublease agreement (collectively, the “**Company Lease**”) to be entered into between the Company (and/or the owner of the Land) and the Agency and accept an interest in the Equipment pursuant to a bill of sale from the Company (the “**Bill of Sale**”); (ii) sublease the Project Facility to the Company (and/or the owner of the Land) pursuant to a sublease agreement (the “**Agency Lease**” and together with the Company Lease, the Bill of Sale, the Project Agreement 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; (iii) grant the approved Financial Assistance; provided that no default shall have occurred and be continuing under the Agreement (as hereinafter defined), the Lease Documents or any loan documents, and provided the Company has executed and delivered all documents and certificates required by the Agency in conjunction with the Agency’s undertaking of the Project, and has executed and delivered all other certificates and documents necessary or appropriate for the grant of the approved Financial Assistance requested by the Company, in form and substance acceptable to the Agency, or its commercial lender(s), in connection with financing for the Project, including but not limited to, one or more mortgages in favor of the Company’s commercial lender(s).

Section 4. The terms and conditions of subdivision 3 of Section 875 of the Act are herein incorporated by reference and the Company shall agree to such terms as a condition precedent to receiving or benefiting from an exemption from State sales and use tax exemptions benefits. Notwithstanding anything herein to the contrary, the amount of State and local sales and use tax exemption benefits comprising the Financial Assistance approved herein shall not exceed **\$246,153 and shall last no longer than two years from the execution and delivery of the Lease Documents**. The Agency may consider any request by the Company for increases to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services.

Section 5. Notwithstanding anything herein to the contrary, the amount of mortgage recording tax exemption benefit comprising the Financial Assistance approved herein shall not exceed **\$34,661**.

Section 6. Notwithstanding anything herein to the contrary, the amount of real property tax abatement benefit comprising the Financial Assistance approved herein shall be approximately **\$1,386,423**, which such amount reflects the total estimated real property tax exemptions for the Project Facility (which constitute those taxes that would have been paid if the Project Facility were on the tax rolls and not subject to that certain payment in lieu of tax agreement between the Company and the Agency (the “PILOT Agreement”) of approximately **\$1,750,884**, less the estimated payments in lieu of taxes of approximately **\$364,461** to be made by the Company to the affected tax jurisdictions with respect to the Project Facility during the term of the PILOT Agreement. The approximate amount of estimated real property tax exemptions and the approximate amount of estimated payments in lieu of taxes are estimated based on an assumed assessed value of the Project Facility and assumed future tax rates of the affected tax jurisdictions, therefore the real property tax abatement benefit is estimated because it is calculated using the estimated real property tax exemptions. The actual amount of real property tax abatement benefit is subject to change over the term of the PILOT Agreement depending on any changes to assessed value and/or tax rates of the affected tax jurisdictions. **Exhibit “B”**

attached hereto reflects the calculation used to determine the annual amount of the payments in lieu of taxes to be made to the affected tax jurisdictions in each year during the term of the PILOT Agreement.

Section 7. The Company may utilize, and subject to the terms of this Resolution, the Agreement and the Project Agreement, is hereby authorized to appoint, a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, “***Additional Agents***”) to proceed with the construction, installation, equipping and completion of the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf, provided the Company execute, deliver and comply with the Lease Documents. The Company shall provide, or cause its Additional Agents to provide, and the Agency shall maintain, records of the amount of State and local sales and use tax exemption benefits provided to the Project; and the Company shall, and cause each Additional Agent, to make such records available to the State Commissioner of Taxation and Finance (the “***Commissioner***”) and the Agency upon request. The Agency shall, within thirty (30) days of providing any State sales and use tax exemption benefits, report to the Commissioner the amount of such benefits for the Project, identifying the Project, along with any such other information and specificity as the Commissioner may prescribe. As a condition precedent to the Company or Project’s receipt of, or benefit from, any State or local sales and use tax exemptions, the Company must acknowledge and agree to make, or cause its Additional Agents to make, all records and information regarding State and local sales and use tax exemption benefits realized by the Project available to the Agency or its designee upon request. For purposes of exemption from State sales and use taxation as part of the Financial Assistance requested, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

Section 8. As a condition precedent to the granting of the Financial Assistance, the Company agrees to execute an agreement with the Agency setting forth the preliminary undertakings of the Agency and the Company with respect to the Project. The form and substance of the proposed agreement (as set forth as on **Exhibit “A”** attached hereto and presented at this meeting) (the “***Agreement***”) are hereby approved. The Chief Executive Officer and/or the (Vice) Chairperson of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, in substantially the same form as presented at this meeting and attached hereto as **Exhibit “A”**, with changes in terms and form as shall be consistent with this Resolution and as the Chief Executive Officer or the (Vice) Chairperson shall approve. The execution thereof by the Chief Executive Officer or the (Vice) Chairperson of the Agency of the Board shall constitute conclusive evidence of such approval.

Section 9. As an additional condition precedent to the extension of Financial Assistance, the Company shall acknowledge and agree, that the Agency shall, and in some cases may, recapture from the Company or any Additional Agents (as defined herein) the State and local sales and use tax exemption (the “***Recapture Amount***”) taken or purported to be taken by any such person to which the person or Project is not entitled or which are in excess of the amounts authorized or which are for property or services not authorized or taken in cases where such Company or Additional Agents failed to comply with a material term or condition to use

property or services in the manner required by the Company or Additional Agents agreement with, or for the benefit of, the Agency. Such Company or Additional Agent shall cooperate with the Agency in its efforts to recover, recapture, receive, or otherwise obtain such State sales and use exemptions benefits and shall promptly pay over any such amounts to the Agency that it requests. The failure to pay over such amounts to the Agency shall be grounds for the Commissioner to assess and determine State sales and use taxes due from the Company and/or Additional Agents under article twenty-eight of the tax law, together with any relevant penalties and interest due on such amounts. In addition, the Agency may recapture all other Financial Assistance in the event any of the foregoing occur or there is a Deficit (as defined in the Agency's Recapture Policy).

Section 10. As another condition precedent to the extension of Financial Assistance, the Company and the Agency shall execute and deliver a project agreement (the "***Project Agreement***") setting forth certain terms and conditions relative to the approved Financial Assistance.

Section 11. Subject to the due execution and delivery by the Company of the Agreement and the Project Agreement, the satisfaction of the conditions of this Resolution, the Agreement, the Project Agreement and the payment by the Company of any attendant fees due to or incurred by the Agency, the Company is hereby appointed the true and lawful agent of the Agency to proceed with the construction, installation, equipping and completion of the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf. The appointment made by this Section shall not be effective until the Agreement and the Project Agreement and an Environmental Compliance and Indemnification Agreement (as defined herein) by the Company in favor of the Agency have been duly executed and delivered by the Company.

Section 12. The Chief Executive Officer and/or the (Vice) Chairperson of the Board, acting individually, 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 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 and the Agreement.

Section 13. The obligation of the Agency to consummate any transaction contemplated herein or hereby is subject to and conditioned upon the execution and delivery of, among other things, an environmental compliance and indemnification agreement (the "Environmental Compliance and Indemnification Agreement") in favor of the Agency in form and substance acceptable to the Agency and its counsel by the Company, and some or all of its principals, in the discretion of the Chief Executive Officer and/or (Vice) Chairperson of the Agency.

Section 14. No covenant, stipulation, obligation or agreement contained in this Resolution or any document referred to herein 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 herein 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 15. Should the Agency's participation in the Project, or the appointments made in accordance herewith, be challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursement of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under the Act to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

Section 16. 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 17. The Chief Executive Officer and/or (Vice) Chairperson of the Agency are each 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 18. 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 consummate the Lease Documents.

Section 19. 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	
Tricia Peter-Clark				X	
Marc Greco	X				
Tim Stahl	X				
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble	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 February 23, 2023, 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 Article 7 of the Public Officers Law (the “*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 Open Meetings Law, (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 February 23, 2023.

Austin Wheelock
Chief Executive Officer

(SEAL)

EXHIBIT “A”

AGENCY/COMPANY AGREEMENT

This Agreement is between the **COUNTY OF OSWEGO INDUSTRIAL DEVELOPMENT AGENCY** (the “*Agency*”) and OSWEGO PV, LLC, a Delaware limited liability Company (the “*Company*”).

Article 1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this Agreement are the following:

1.01. The Agency is authorized and empowered by the provisions of 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 grant “financial assistance” (as defined in the Act) in connection with “Projects” (as defined in the Act) and to lease or sell the same upon such terms and conditions as the Agency may deem advisable and designate an agent for constructing, installing and equipping “projects” (as defined in the Act).

1.02. The purposes of the Act are to promote, attract, encourage and develop recreation and economically sound commerce and industry in order 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. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes, including the power to grant financial assistance, acquire and dispose of interests in real property and to appoint agents for the purpose of completion of projects undertaken by the Agency.

1.03. The Company submitted an application to the Agency (the “*Application*”), a copy of which is on file at the office of the Agency, requesting the Agency consider undertaking a project (the “*Project*”) consisting of: (A) (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 78.31 acres of real property located at 447 County Route 20 (tax map no. 164.00-06-02.08) in the Town of Oswego, County of Oswego, State of New York (the “*Land*”); (ii) the construction on the Land of an approximately 22.44 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “*Facility*”); and (iii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “*Equipment*”) (the Land, the Facility and Equipment are hereinafter collectively referred to as the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer taxes, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax (collectively, the “*Financial Assistance*”); and (C) the lease (or sub-lease) of the Land and the Facility by the Company (and/or the owner of the Land) to the Agency pursuant to a lease agreement; the acquisition by the Agency of an interest in the Equipment

pursuant to a bill of sale from the Company; and the sublease of the Project Facility back to the Company (and/or the owner of the Land) pursuant to a sublease agreement.

1.03(a). All documents necessary to effectuate the Agency's undertaking of the Project and the granting of the Financial Assistance between the Agency and the Company, including but not limited to, a company lease, a bill of sale, an agency lease, a project agreement, an environmental compliance and indemnification agreement and a payment in lieu of tax agreement, shall be collectively referred to herein as the "***Lease Documents***".

1.04. The Company hereby represents to the Agency that undertaking the Project, the designation of the Company as the Agency's agent for the construction, installation, equipping and completion of the Project Facility, and the appointment by the Company of a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, "***Additional Agents***"): (i) will be an inducement to it to construct, install, equip and complete the Project Facility in the Town of Oswego, County of Oswego (the "***County***"); and (ii) will not result in the removal of a 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 or in the abandonment of one or more plants or facilities of the Company or of any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act.

1.05. The Agency has determined that the acquisition or continuation of a controlling interest in, and the construction, installation and equipping of the Project Facility and the subleasing of the same to the Company will promote and further the purposes of the Act.

1.06 On February 23, 2023, the Agency adopted a resolution (the "***Inducement Resolution***") agreeing, subject to the satisfaction of all conditions precedent set forth in such Resolution, to designate the Company as the Agency's agent for the acquisition, construction, installation, equipping and completion of the Project Facility and determining that the leasing of the same to the Company will promote further purposes of the Act. For purposes of that designation, the Agency authorized as part of the approved Financial Assistance, State and local sales and use tax exemption benefits in an amount not to exceed **\$246,153**, a mortgage recording tax exemption in an amount not to exceed **\$34,661**, and the amount of real property tax abatement benefits in an approximate amount of **\$1,386,423**, which such amount reflects the total estimated real property tax exemptions for the Project Facility (which constitute those taxes that would have been paid if the Project Facility were on the tax rolls and not subject to that certain payment in lieu of tax agreement between the Company and the Agency (the "***PILOT Agreement***") of approximately **\$1,750,884**, less the estimated payments in lieu of taxes of approximately **\$364,461** to be made by the Company to the affected tax jurisdictions with respect to the Project Facility during the term of the PILOT Agreement.

1.07 In the Resolution, subject to the execution of, and compliance with, this Agreement by the Company, and other conditions set forth in the Inducement Resolution and herein, the Agency appointed the Company as its agent for the purposes of acquisition, construction, installation, equipping and completion of the Project Facility, entering into contracts and doing all things requisite and proper for the acquisition, construction, installation, equipping and completion of the Project Facility.

Article 2. Undertakings on the Part of the Agency. Based upon the statements, representations and undertakings of the Company and subject to the conditions set forth herein, the Agency agrees as follows:

2.01. The Agency confirms that it has authorized and designated the Company as the Agency's agent for acquiring, constructing, installing, equipping and completing the Project Facility.

2.02. The Agency has adopted such proceedings and authorized the execution of such Agency documents as may be necessary or advisable for: (i) acquisition of a controlling interest in the Project Facility; (ii) appointment by the Company of Additional Agents, all for the acquisition, construction, installation, equipping and completion of the Project Facility subject to the terms of the Inducement Resolution and hereof; and (iii) the leasing or subleasing of the Project Facility to the Company, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company.

2.03. Nothing contained in this Agreement shall require the Agency to apply its funds to Project costs.

2.04. After satisfying the conditions precedent set forth in the Inducement Resolution, and in Article 3 and Section 4.02 hereof, the Company may proceed with the acquisition, construction, installation, equipping and completion of the Project Facility and the utilization of and, as necessary, the appointment of Additional Agents.

2.05 Subject to Section 4.02 hereof, the Company is appointed the true and lawful agent of the Agency for the acquisition, construction, installation, equipping and completion of the Project Facility, and to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for the acquisition, construction, installation, equipping and completion of the Project Facility, all with the same powers and the same validity as if the Agency were acting in its own behalf.

2.06. The Agency will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof. The Agency may in accordance with Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as "**SEQRA**"), undertake supplemental review of the Project. Such review to be limited to specific significant adverse environmental impacts not addressed or inadequately addressed in the Agency's review under SEQRA that arise from changes in the proposed Project, newly discovered information or a change in the circumstances related to the Project.

Article 3. Undertakings on the Part of the Company. Based upon the statements, representations and undertakings of the Agency and subject to the conditions set forth herein, the Company agrees as follows:

3.01. (a) The Company shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the acquisition of a controlling interest in, constructing, installing, equipping and completion of the Project Facility (including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing) whether such claims or liabilities arise as a result of the Company or Additional Agents acting as agent for the Agency pursuant to this Agreement or otherwise.

(b) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove, any mechanics' or other liens against the Project Facility for labor or material furnished in connection with the acquisition, construction, installation, equipping and completion of the Project Facility.

(c) The Company shall indemnify and hold the Agency, its members, officers, employees and agents and anyone for whose acts or omissions the Agency or any one of them may be liable, harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation to the Project, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

(d) The Company shall defend, indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on the non-disclosure of information, if any, requested by the Company in accordance with Section 4.05 hereof.

(e) The defense and indemnities provided for in this Article 3 shall survive expiration or termination of this Agreement and shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

(f) The Company shall provide and carry: (i) worker's compensation and disability insurance as required by law; and (ii) comprehensive liability and property insurance with such coverages (including without limitation, owner's protective coverage for the benefit of the Agency, naming the Agency as an additional insured on all policies of coverage regarding the Project; providing the coverage with respect to the Agency be primary and non-contributory; and contractual coverage covering the indemnities herein provided for), with such limits and which such companies as may be approved by the Agency. The Company shall provide certificates and/or policies of insurance in form satisfactory to the Agency evidencing such insurance.

(g) The Company shall include the Agency as a named insured under all public liability insurance policies obtained by the Company with respect to the Project Facility.

(h) The Company shall apply and diligently pursue all approvals, permits and

consents from the State of New York, the Town of Oswego, County of Oswego and any other governmental authority which approvals, permits and consents are required under applicable law for the development, construction and equipping of the Project and any related site improvements. The Company acknowledges and agrees that the Agency's findings and determinations under SEQRA do not and shall not in and of themselves (except as specifically set forth in SEQRA) satisfy or be deemed to satisfy applicable laws, regulations, rules and procedural requirements applicable to such approvals, permits and consents.

3.02. The Company agrees that, as agent for the Agency or otherwise, it will comply at the Company's sole cost and expense with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Agency and/or Company with respect to the Project Facility, the acquisition of a controlling interest therein, construction, installation, equipping and completion thereof, the operation and maintenance of the Project Facility, supplemental review of adverse environmental impacts in accordance with SEQRA and the financing of the Project. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full, including, but not limited to, Section 875 of the Act; and upon the request of either party, this Agreement shall be amended to specifically set forth any such provision or provisions.

3.03. (a) The Company agrees that, as agent for the Agency, to the extent that such provisions of law are in fact applicable (without creating an obligation by contract beyond that which is created by statute), it will comply with all the requirements Section 220 of the Labor Law of the State of New York, as amended.

(b) The Company agrees that, whenever practicable, the Company shall hire employees and Additional Agents from the Agency's Labor Market Area which is defined to include the following counties: Oswego, Jefferson, Onondaga, Madison, Oneida and Cayuga.

3.04. The Company will take such further action and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.05. If it should be determined that any State or local sales or compensatory use taxes are payable with respect to the acquisition, purchase or rental of machinery or equipment, materials or supplies in connection with the Project Facility, or are in any manner otherwise payable directly or indirectly in connection with the Project Facility, the Company shall pay the same and defend and indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

3.06. The Company shall proceed with the acquisition, construction, installation, equipping and completion of the Project Facility and advance such funds as may be necessary to accomplish such purposes. The Company may utilize, and is authorized to appoint, Additional Agents as agents of the Agency, in furtherance thereof. Any appointment of an Additional Agent is conditioned upon the Company first obtaining and providing the Agency the following:

(1) A written, executed agreement, in form and substance acceptable to the Agency, from each appointed Additional Agent which provides for: (i) the assumption by the

Additional Agent, for itself, certain of the obligations under this Agreement relative to the appointment, work and purchases done and made by each appointed Additional Agent; (ii) an acknowledgement by the Additional Agent to hire from the Labor Market Area during the construction period of the Project Facility whenever practicable; (iii) an acknowledgement that the Additional Agent is obligated, to timely provide the Company with the necessary information to permit the Company, pursuant to General Municipal Law §874(8), to timely file an Annual Statement with the New York State Department of Taxation and Finance on "Annual Report of Sales and Use Tax Exemptions" (Form ST-340) regarding the value of sales and use tax exemptions the Additional Agent claimed pursuant to the agency conferred on it by the Company with respect to this Project; (iv) an acknowledgment by the Additional Agent that in order to be entitled to the exemption, the Additional Agent shall present to the supplier or other vendor of materials or equipment for the Project Facility a completed "IDA Agent or Project Operator Exempt Purchase Certificate" (Form ST-123); (v) an acknowledgment by the Additional Agent that that the failure to comply with the foregoing will result in the loss and recapture of the exemption; and (vi) such other terms and conditions as the Agency deems necessary; and

(2) A completed "IDA Appointment of Project Operator or Agent for Sales Tax Purposes" (Form ST-60) for each Additional Agent appointed within fifteen (15) days of the appointment of each Additional Agent such that the Agency can execute and deliver said form to the State Department of Taxation and Finance within thirty (30) days of appointment of each such Additional Agent.

Failure of the Company to comply with the foregoing shall nullify the appointment of any Additional Agent and may result in the loss and recapture of the Company's exemption with respect to the Project at the sole discretion of the Agency.

The Company acknowledges that the assumption by the Additional Agent in accordance with Section 3.06(1) above, does not relieve the Company of its obligations under those provisions or any other provisions of this Agreement with respect to the Project.

3.07. The Company hereby ratifies and confirms its obligation to pay an administrative fee to the Agency in the amount of .75% of the Project costs. Such amount is due and payable in full at closing.

3.08 The Company hereby ratifies and confirms its obligation to pay an annual administrative reporting fee of \$500.00 to cover administrative and reporting requirements to comply with New York State reporting regulations on Agency assisted projects.

Article 4. General Provisions.

4.01. This Agreement shall take effect on the date of the execution hereof by the Agency and the Company and, subject to Section 4.04 hereof, shall remain in effect until the Lease Documents become effective. It is the intent of the Agency and the Company that, except as to those provisions that survive, this Agreement be superseded in its entirety by the Lease Documents.

4.02. (a) It is understood and agreed by the Agency and the Company that the grant of Financial Assistance and the execution of the Lease Documents and related documents are subject to: (i) payment by the Company of the Agency's fee and Agency's counsel and special counsel fees; (ii) obtaining all necessary governmental approvals, permits and consents of any kind required in connection with the Project Facility; (iii) approval by the members of the Agency; (iv) approval by the Company; and (v) the condition that there are no changes in New York State Law, including regulations, which prohibit or limit the Agency from fulfilling its obligations hereunder; (b) the Company, by executing this Agreement, acknowledges and agrees to make, or cause its Additional Agents whether appointed as an agent of the Agency in accordance with Section 3.06 hereof or not, to make, all records and information regarding State and local sales and use tax exemption benefits given to the Project as part of the Financial Assistance available to the Agency upon request, including but not limited to the Form ST-340 for itself and each Additional Agent; (c) the Company, by executing this Agreement, acknowledges and agrees to the terms and conditions of Section 875(3) of the Act as if such section were fully set forth herein and further agrees to cause all of its Additional Agents to acknowledge, agree and consent to same.

Without limiting the scope of the foregoing the Company acknowledges that pursuant to Section 875(3) of the Act and in accordance with the Agency's Recapture Policy (*which is published on the Agency's website or available at the Agency's office*), the Company is subject to recapture of all State sales and use tax exemption benefits (the "**Recapture Amount**") if:

- (1) the Company or its Additional Agents, if any, authorized to make purchases for the benefit of the Project are not entitled to the State sales and use tax exemption benefits; or
- (2) the State sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its subagents, if any; or
- (3) the State sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or
- (4) the Project has failed to comply with a material term or condition to use the property or services in the manner required by any project documents between the Company and the Agency.

The failure of the Company to promptly pay such Recapture Amount to the Agency will be grounds for the Commissioner to collect sales and use taxes from the Company under Article 28 of the State Tax Law, together with interest and penalties.

In addition, and in accordance with the Agency's Recapture Policy, the Agency may recapture all other Financial Assistance in the event any of the foregoing occur or there is a Deficit (as defined in the Agency's Recapture Policy). For purposes of the foregoing, the Company acknowledges and agrees that for purposes of exemption from State sales and use taxation as part of the Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the

New York State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

4.03. The Company agrees that it will, within thirty (30) days of a written request for same, regardless of whether or not this matter closes or the Project Facility is completed: (i) reimburse the Agency for all reasonable and necessary expenses, including without limitation the fees and expenses of counsel to the Agency arising from, out of or in connection with the Project, and/or any documents executed in connection therewith, including, but not limited to any claims or actions taken by the Agency against the Company, Additional Agents or third parties; and (ii) indemnify the Agency from all losses, claims, damages and liabilities, in each case which the Agency may incur as a consequence of executing this Agreement or performing its obligations hereunder, including but not limited to, any obligations related to Additional Agents.

4.04. If for any reason the Lease Documents are not executed and delivered by the Company and the Agency on or before eighteen (18) months from the execution hereof, the provisions of this Agreement (other than the provisions of Articles 1.04, 2.02, 2.04, 3.01, 3.02, 3.03, 3.05, 3.06, 4.02, 4.03, 4.04, 4.05 and 4.06, which shall survive) shall unless extended by agreement of the Agency and the Company, terminate and be of no further force or effect, and following such termination neither party shall have any rights against the other party except:

(a) The Company shall pay the Agency for all expenses incurred by the Agency in connection with the acquisition, construction, installation, equipping and completion of the Project Facility;

(b) The Company shall assume and be responsible for any contracts for construction or purchase of equipment entered into by the Agency at the request of or as agent for the Company in connection with the Project Facility; and

(c) The Company will pay the out-of-pocket expenses of members of the Agency, counsel for the Agency and special Agency counsel incurred in connection with the Project and will pay the fees of counsel for the Agency and special Agency counsel for legal services relating to the Project Facility, Additional Agents or the proposed financing thereof.

4.05. The Company acknowledges that Section 87(5)(7) of the New York General Municipal Law (“GML”) requires the Agency to post on its website all resolutions and agreements relating to the Company’s appointment as an agent of the Agency or otherwise related to the Project, including this Agreement; and Article 6 of the New York Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Company feels that there are elements of the Project or information about the Company in the Agency’s possession which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the Company’s competitive position, the Company must identify such elements in writing, supply same to the Agency: (i) with respect to this Agreement, prior to or contemporaneously with the execution hereof; and (ii) with respect to all other agreements executed in connection with the Project, on or before the Closing Date, and request that such elements be kept confidential in accordance with Article 6 of

the Public Officers Law. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the GML.

4.06 That every controversy, dispute or claim arising out of or relating to this Agreement shall be governed by the laws of the State of New York, without regard to its conflict-of-laws provisions that if applied might require the application of the laws of another jurisdiction; and that the Company irrevocably and expressly submits to the exclusive personal jurisdiction of the Supreme Court of the State of New York and the United States District Court for the Northern District of New York, to the exclusion of all other courts, for the purposes of litigating every controversy, dispute or claim arising out of or relating to this Agreement.

IN WITNESS WHEREOF, the parties hereto have entered in this Agreement as of _____, 2023.

**COUNTY OF OSWEGO INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Austin Wheelock
Chief Executive Officer

OSWEGO PV, LLC

By: _____
Name:
Title:

EXHIBIT “B”
PILOT SCHEDULE

Term:	20 years
Annual payments:	<p>\$5,000 per MW, (\$15,000 in year 1) 2% escalator, compounded annually</p> <p>Distribution of annual PILOT Payments will be based on the pro-rata share of each of the affected taxing jurisdictions for each respective year.</p>
Exemption:	<p>The above formula will apply only to acreage included in the Project; which shall be classified as Wholly Exempt under RPTL 412-a; the remaining portion of the tax parcel (if any) and unrelated improvements will be classified as Taxable.</p>
Decommissioning:	<p>Prior to execution and delivery of the PILOT Agreement, the Company must provide a decommissioning plan reasonably acceptable to the Agency and the host municipality, and provide the Agency with proof of a bond or other surety in the amount equal to the cost of the decommissioning.</p>

PILOT RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on February 23, 2023 at 9:00 a.m. local time, 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: Marc Greco, H. Leonard Schick, Tim Stahl, Gary T. Toth, and Barry Trimble

ABSENT: Nick Canale, Jr. and Tricia Peter-Clark

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and Austin Wheelock

The following resolution was duly offered and seconded:

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

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, 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, construct, reconstruct and install “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, Oswego PV, LLC, a Delaware limited liability company, or an entity formed or to be formed (the “Company”) submitted an application to the Agency requesting that the Agency consider undertaking a project (the “Project”) consisting of: (A) (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 78.31 acres of real property located at 447 County Route 20 (tax map no. 164.00-06-02.08) in the Town of Oswego, County of Oswego, State of New York (the “**Land**”); (ii) the construction on the Land of an approximately 22.44 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Facility**”); and (iii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Equipment**”) (the Land, the Facility and Equipment are hereinafter collectively referred to as the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer tax, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax (collectively, the “**Financial Assistance**”); and (C) the lease (or sub-lease) of the Land and the Facility by the Company (and/or the owner of the Land) to the Agency pursuant to a lease agreement; the acquisition by the Agency of an interest in the Equipment pursuant to a bill of sale from the Company; and the sublease of the Project Facility back to the Company (and/or the owner of the Land) pursuant to a sublease agreement; and

WHEREAS, the owner of the Land is Constance Simmons and the operator of the Project Facility will be the Company; and

WHEREAS, the Agency adopted a resolution on January 25, 2023 describing the Project, the Financial Assistance and authorizing a public hearing (the “**Initial Resolution**”); and

WHEREAS, the Agency conducted a public hearing (the “**Public Hearing**”) with respect to the Project and the proposed Financial Assistance on February 21, 2023 pursuant to Section 859-a of the Act, notice of which was published on February 9, 2023 in The Post Standard, a newspaper of general circulation in the County of Oswego, New York; and

WHEREAS, in accordance with the requirements of Section 859-a of the Act, written notice of the Public Hearing dated February 7, 2023 and a copy of the Initial Resolution was delivered by the Agency by certified mail, return receipt requested, to the chief executive officer of each affected local taxing jurisdiction, including the school board and district superintendent of the Oswego City School District;

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as

“**SEQRA**”), the Town of Oswego Planning Board (the “**Planning Board**”) previously classified the Project as a Type 1 action under SEQRA, acted as lead agency for the purpose of conducting an environmental review of the Project, and issued a negative declaration for the Project on January 16, 2023; and

WHEREAS, the Agency’s involvement in the Project was unknown or was not anticipated when the Planning Board performed the SEQRA review and issued the negative declaration for the Project; and

WHEREAS, on February 23, 2023, the Agency, in recognition of the fact that, had the Agency’s involvement in the Project been contemplated, it would have been an involved agency and consented to the Planning Board’s lead agency status, affirmed and adopted the negative declaration issued by the Planning Board for the Project, thereby concluding the Agency’s obligations under SEQRA (the “**SEQRA Resolution**”); and

WHEREAS, on February 23, 2023 the Agency adopted a Resolution (the “**Inducement Resolution**”) agreeing to undertake the Project and appointing the Company as its agent for purposes of completing the Project Facility; and

WHEREAS, in the Application, the Company also requested that the Agency consider a payment in lieu of taxes agreement (the “**PILOT Agreement**”) with respect to the Project Facility, pursuant to a payment in lieu of tax schedule (the “**PILOT Schedule**”), more fully described on **Exhibit “A”** attached hereto; and such schedule constitutes a deviation from the Agency’s Uniform Tax Exemption Policy (“**UTEP**”) established pursuant to Section 874(4) of the Act, but comports with other payment in lieu of taxes schedules relative to other similar projects; and

WHEREAS, in accordance with the requirements of Section 874 of the Act, by letters dated February 13, 2023 sent by certified mail, return receipt requested, the Agency gave to the chief executive officers of the affected tax jurisdictions, including the school board and district superintendent of the Oswego City School District, notice of this meeting, at which the Agency would consider the Company’s request for a PILOT schedule which deviates from the UTEP; and

WHEREAS, prior to the date hereof, the Agency responded to all communications and correspondence received from the affected taxing jurisdictions regarding the proposed deviation from the UTEP; and

WHEREAS, no representatives from the affected tax jurisdictions were present at this meeting to address the Agency regarding such proposed deviation from the UTEP; and

WHEREAS, the Agency has given due consideration to the Application and to the representations by the Company that the provision of Financial Assistance: (i) will induce the Company to develop the Project Facility in the Town of Oswego, County of Oswego; (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or 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; and (iii) the Project will serve the purposes of the Act by advancing the health, general prosperity and economic welfare of the people of the State.

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 health, 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 adopted in connection with this proposed Project (collectively, the “Resolutions”).

Section 3. 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 PILOT Schedule, as set forth in the **Exhibit “A”** attached hereto, the PILOT Schedule is hereby approved subject to the terms and conditions of the Resolutions. The Chief Executive Officer and the (Vice) Chairperson of the Agency are each hereby authorized to execute and deliver a PILOT Agreement and any related documents reflecting the PILOT Schedule in a form substantially similar to PILOT agreements used in similar transactions with the Agency which is acceptable to the Chief Executive Officer or the (Vice) Chairperson upon advice of counsel.

Section 4. No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein 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 herein 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 5. 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 6. The Chief Executive Officer and/or (Vice) Chairperson of the Agency are 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 7. 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, including, but not limited to, a PILOT Agreement.

Section 8. 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	
Tricia Peter-Clark				X	
Marc Greco	X				
Tim Stahl	X				
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble	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 February 23, 2023, 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 Article 7 of the Public Officers Law (the “**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 Open Meetings Law, (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 February 23, 2023.

Austin Wheelock
Chief Executive Officer

(SEAL)

EXHIBIT “A”

PILOT SCHEDULE

Term: 20 years

Annual payments: \$5,000 per MW, (\$15,000 in year 1) 2% escalator, compounded annually

Distribution of annual PILOT Payments will be based on the pro-rata share of each of the affected taxing jurisdictions for each respective year.

Exemption: The above formula will apply only to acreage included in the Project; which shall be classified as Wholly Exempt under RPTL 412-a; the remaining portion of the tax parcel (if any) and unrelated improvements will be classified as Taxable.

Decommissioning: Prior to execution and delivery of the PILOT Agreement, the Company must provide a decommissioning plan reasonably acceptable to the Agency and the host municipality, and provide the Agency with proof of a bond or other surety in the amount equal to the cost of the decommissioning.

FINAL APPROVING RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on February 23, 2023 at 9:00 a.m. local time, 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: Marc Greco, H. Leonard Schick, Tim Stahl, Gary T. Toth, and Barry Trimble

ABSENT: Nick Canale, Jr. and Tricia Peter-Clark

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and Austin Wheelock

The following resolution was duly offered and seconded:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS BY THE AGENCY IN CONNECTION WITH A 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, 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, construct, reconstruct and install “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, Oswego PV, LLC, a Delaware limited liability company, or an entity formed or to be formed by it or on its behalf (the “**Company**”), submitted an application to the Agency on or about October 5, 2022 (the “**Application**”), a copy of which is on file at the office of the Agency, requesting the Agency consider undertaking a project (the “**Project**”) consisting of: (A) (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 78.31 acres of real property located at 447 County Route 20 (tax map no. 164.00-06-02.08) in the Town of Oswego, County of Oswego, State of New York (the “**Land**”); (ii) the construction on the Land of an approximately 22.44 acre solar power electric generating photovoltaic system, including, but not limited to, solar panels, inverters, transformer, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Facility**”); and (iii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Equipment**”) (the Land, the Facility and Equipment are hereinafter collectively referred to as the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer tax, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax (collectively, the “**Financial Assistance**”); and (C) the lease (or sub-lease) of the Land and the Facility by the Company (and/or the owner of the Land) to the Agency pursuant to a lease agreement; the acquisition by the Agency of an interest in the Equipment pursuant to a bill of sale from the Company; and the sublease of the Project Facility back to the Company (and/or the owner of the Land) pursuant to a sublease agreement; and

WHEREAS, the owner of the Land is Constance Simmons and the operator of the Project Facility will be the Company; and

WHEREAS, the Agency conducted a public hearing (the “**Public Hearing**”) with respect to the Project and the proposed Financial Assistance on February 21, 2023 pursuant to Section 859-a of the Act, notice of which was published on February 9, 2023 in The Post Standard, a newspaper of general circulation in the County of Oswego, New; and

WHEREAS, in accordance with the requirements of Section 859-a of the Act, written notice of the Public Hearing dated February 7, 2023 and a certified copy of the Initial Resolution was delivered by the Agency by certified mail, return receipt requested, to the chief executive officer of each affected local taxing jurisdiction, including the school board and district superintendent of the Oswego City Central School District; 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 (“**UTEP**”) established pursuant to Section 874(4) of the Act; and

WHEREAS, in accordance with the requirements of Section 874 of the Act, by letters dated February 13, 2023 sent by certified mail, return receipt requested, the Agency gave to the chief executive officers of the affected tax jurisdictions, including the school board and district

superintendent of the Oswego City Central School District, notice of this meeting, at which the Agency would consider the Company's request for a PILOT schedule which deviates from the UTEP; and

WHEREAS, prior to the date hereof, the Agency responded to all communications and correspondence received from the affected taxing jurisdictions regarding the proposed deviation from the UTEP; and

WHEREAS, no representatives from the affected taxing jurisdictions were present at this meeting to address the Agency regarding such proposed deviation from the UTEP; and

WHEREAS, the Agency adopted a resolution on January 25, 2023 (the "**Initial Resolution**") entitled:

RESOLUTION DETERMINING THAT THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A CERTAIN FACILITY AT THE REQUEST OF OSWEGO PV, LLC 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; and

WHEREAS, the Agency adopted a resolution on February 23, 2023 (the "**SEQRA Resolution**") entitled:

RESOLUTION CLASSIFYING A CERTAIN PROJECT AS A TYPE 1 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; and

WHEREAS, the Agency adopted a resolution on February 23, 2023 (the "**Inducement Resolution**") entitled:

RESOLUTION AUTHORIZING THE UNDERTAKING OF THE ACQUISITION, CONSTRUCTION, INSTALLATION, EQUIPPING AND COMPLETION OF A CERTAIN PROJECT, APPOINTING OSWEGO PV, LLC (THE "COMPANY") AS AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, INSTALLATION, EQUIPPING AND COMPLETION OF THE PROJECT; APPROVING CERTAIN FINANCIAL ASSISTANCE; 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; and

WHEREAS, for purposes of exemption from New York State sales and use taxation as part of the Financial Assistance requested, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the New York State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight; and

WHEREAS, the Agency has given due consideration to the Application and to representations by the Company that the provision of Financial Assistance: (i) will induce the Company to develop the Project Facility in the Town of Oswego, County of Oswego; (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or 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; and (iii) will induce the Company to undertake the Project which will serve the purposes of the Act by advancing the health, general prosperity and economic welfare of the people of the State; and

WHEREAS, the Agency adopted a resolution on February 23, 2023 (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 health, 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 in the Town of Oswego, County of Oswego; and will assist the Company in the construction, installation and equipping of the Project Facility.
- c) The commitment of the Agency to provide the Financial Assistance to the Company will enable the Company to acquire, construct, install, equip and complete the Project Facility.
- d) The acquisition of a controlling interest in the Project Facility by the Agency and the designation of the Company as the Agency's agent for the acquisition, construction, installing, equipping and completion of the Project will be an inducement to the Company to acquire, construct, improve, install, equip and complete the Project Facility in the Town of Oswego, County of Oswego, and will serve the purposes of the Act by, among other things, advancing the general prosperity and economic welfare of the inhabitants of the County of Oswego; and the granting of the Financial Assistance will assist in financing the costs of the acquisition, construction, installation, equipping and completion of the Project Facility.
- e) 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, the Project Agreement (as those terms are defined in the Inducement Resolution), this Resolution, the Inducement Resolution, the SEQRA Resolution and the PILOT Resolution (collectively the "**Resolutions**"), the Agency will: (A) acquire a controlling interest in the Project Facility; (B) lease the Land and Facility from the Company (and/or the respective owners of the Land) pursuant to a lease agreement between the Agency and the Company (and/or the respective owners of the Land) (the "**Company Lease**") and acquire an interest in the Equipment pursuant to one or more bills of sale from the Company (collectively, the "**Bill of Sale**"); sublease the Project Facility to the Company, pursuant to a sublease agreement 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 (the "**Agency Lease**", and together with the Company Lease, the Bill of Sale, the Agency Lease and the Project Agreement, the "**Lease Documents**"); C) 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; (D) 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 Company's lender(s), in such form and substance as shall be

consistent with this Resolution and approved by the Chief Executive Officer and/or the (Vice) Chairperson of the Board 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 any lease 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 and/or the (Vice) Chairperson of the Board upon the advice of counsel to the Agency (collectively, the “***Lender Documents***”); and (E) execute and deliver any other documents necessary to effectuate the intent of the Resolutions and the granting of the Financial Assistance as contemplated by and consistent with this Resolution upon the advice of counsel to the Agency.

Section 4. The Chief Executive Officer and the (Vice) Chairperson are each hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the Lease Documents, the Lender Documents and any other 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 the Resolutions. The execution thereof by the Chief Executive Officer and/or the (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 and/or (Vice) Chairperson of the Board are 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	
Tricia Peter-Clark				X	
Marc Greco	X				
Tim Stahl	X				
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble	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 February 23, 2023, 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 Article 7 of the Public Officers Law (the “*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 Open Meetings Law, (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 February 23, 2023.

Austin Wheelock
Chief Executive Officer

(SEAL)

SEQRA RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on February 23, 2023, at 9:00 a.m. local time, 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: Marc Greco, H. Leonard Schick, Tim Stahl, Gary T. Toth, and Barry Trimble

ABSENT: Nick Canale, Jr. and Tricia Peter-Clark

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and Austin Wheelock

The following resolution was duly offered and seconded:

RESOLUTION CLASSIFYING A CERTAIN PROJECT AS A TYPE 1 ACTION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT AND DETERMINING THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT ADVERSE EFFECT ON THE ENVIRONMENT

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, reconstruction, renovation, installation and equipping of one or more “projects” (as defined in the Act); and

WHEREAS, Volney PV, LLC, a Delaware limited liability company, or an entity formed or to be formed (the “Company”) submitted an application to the Agency requesting that the Agency consider undertaking a project (the “Project”) consisting of: (A) (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 49.04 acres of real property located at 535 Maple Avenue (tax map nos. 254.00-04-23 (31.56 ac) & part of 254.00-04-02.01 (17.48 ac split)) in the Town of Volney, County of Oswego, State of New York (the “**Original Land**”); (ii) the construction on the Land of an approximately 34.6 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, switchgear, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Facility**”); and (iii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Equipment**”) (the Original Land, the Facility and Equipment are hereinafter collectively referred to as the “**Original Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer tax, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax (collectively, the “**Financial Assistance**”); and (C) the lease (or sub-lease) of the Land and the Facility by the Company (and/or the owner of the Land) to the Agency pursuant to a lease agreement; the acquisition by the Agency of an interest in the Equipment pursuant to a bill of sale from the Company; and the sublease of the Project Facility back to the Company (and/or the owner of the Land) pursuant to a sublease agreement; and

WHEREAS, contemporaneously with the submission of the Application by the Company, Volney II PV, LLC (“**Volney II**”), a Delaware limited liability company related to the Company, submitted an application to the Agency (the “**Volney II Application**”), requesting the Agency consider undertaking a project (the “**Volney II Project**”) consisting of: (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 75.73 acres of real property located at 470 Maple Avenue (tax map nos. 254.00-04-04 (58.25 ac) and part of 254.00-04-02.01 (17.48 ac split)) in the Town of Volney, County of Oswego, State of New York (the “**Volney II Original Land**”); (ii) the construction on the Volney II Original Land of an approximately 29.7 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, switchgear, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Volney II Facility**”); and (iii) the acquisition and installation in and around the Volney II Facility and/or for use in connection with the Volney II Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Volney II Equipment**”) (the Volney II Original Land, the Volney II Facility and the Volney II Equipment are hereinafter collectively referred to as the “**Volney II Original Project Facility**”); and

WHEREAS, subsequent to the submission of the Application, the Agency was advised that (A) the Facility will be constructed on approximately 59.69 acres of real property located at 535 Maple Avenue (tax map nos. 254.00-04-23 (32.10 acres) and 254.00-04-02.01 (17.48 acres) and a portion of tax map no. 254.00-40.04 (10.11 acres)) in the Town of Volney, County of Oswego, State of New York (the Original Land, as revised, the “**Land**”; and the Land, the Facility and the Equipment are hereinafter collectively referred to as the “**Project Facility**”); and (B) the Volney II Project Facility will be constructed on approximately 48.14 acres of real property located at 479 Maple Avenue (a portion of tax map no. 254.00-04-04) in the Town of Volney, County of Oswego, State of New York (the “**Volney II Land**”); and

WHEREAS, taken as a whole, the differences between the Original Land and the Land and the Original Volney II Land and the Volney II Land are de minimis; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “**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 Project and grant of Financial Assistance constitute such an action; and

WHEREAS, to aid in the determination of whether the Project may have a significant effect upon the environment, the Company prepared an Environmental Assessment Form (the “**EAF**”); and

WHEREAS, the Town of Volney Planning Board (“**Planning Board**”) previously classified the Project as a Type 1 action under SEQRA and acted as lead agency for the purpose of conducting an environmental review of the Project; and

WHEREAS, after conducting a thorough review of the Project and its potential effects, the Planning Board determined that the Project would not result in any significant adverse environmental impacts and issued a negative declaration (“**Negative Declaration**”) for the Project on October 12, 2022; and

WHEREAS, the Agency’s involvement in the Project was unknown or was not anticipated when the Planning Board performed the SEQRA review and issued the Negative Declaration for the Project; and

WHEREAS, had the Agency’s involvement been known at the time the Planning Board conducted its environmental review of the Project, the Agency would have, as an involved agency, consented to the Planning Board’s lead agency status and been bound by the Negative Declaration that was issued for the Project; and

WHEREAS, the Project has not changed since the issuance of the Negative Declaration.

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

Section 1. Based upon an examination of the EAF prepared by the Company, the criteria contained in 6 NYCRR §617.7(c), and based further upon the Agency’s knowledge of the area surrounding the Project Facility, all the representations made by the Company in connection with the Project, and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings and determinations with respect to the Project pursuant to SEQRA:

(a) The Project consists of the components described above in the third whereas clause of this resolution;

(b) The Project constitutes a “Type 1” action (as said quoted term is defined in SEQRA) as determined by the Planning Board;

(c) The Agency, in recognition of the fact that it would have been an involved agency and consented to the Planning Board’s lead agency status, hereby reaffirms, accepts and adopts the Negative Declaration that was issued by the Planning Board for the Project, attached hereto as **Exhibit “A”**, which shall be filed in the office of the Agency in a file that is readily accessible to the public.

Section 2. 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 3. 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	
Tricia Peter-Clark				X	
Marc Greco	X				
Tim Stahl	X				
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble	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 February 23, 2023, 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 Article 7 of the Public Officers Law (the “**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 Open Meetings Law, (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 February 23, 2023.

Austin Wheelock
Chief Executive Officer

(SEAL)

EXHIBIT A
NEGATIVE DECLARATION

INDUCEMENT RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on February 23, 2023 at 9:00 a.m. local time, 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: Marc Greco, H. Leonard Schick, Tim Stahl, Gary T. Toth, and Barry Trimble

ABSENT: Nick Canale, Jr. and Tricia Peter-Clark

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and Austin Wheelock

The following resolution was duly offered and seconded:

RESOLUTION AUTHORIZING THE UNDERTAKING OF THE ACQUISITION, CONSTRUCTION, INSTALLATION, EQUIPPING AND COMPLETION OF A CERTAIN PROJECT, APPOINTING VOLNEY PV, LLC (THE “COMPANY”) AS AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, INSTALLATION, EQUIPPING AND COMPLETION OF THE PROJECT; APPROVING CERTAIN FINANCIAL ASSISTANCE; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BETWEEN THE AGENCY AND 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, 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, construct, reconstruct and install “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, Volney PV, LLC, a Delaware limited liability company, or an entity formed or to be formed by it or on its behalf (the “**Company**”), submitted an application to the Agency on or about January 19, 2023 (the “**Application**”), a copy of which is on file at the office of the Agency, requesting the Agency consider undertaking a project (the “**Project**”) consisting of: (A) (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 49.04 acres of real property located at 535 Maple Avenue (tax map nos. 254.00-04-23 (31.56 ac) & part of 254.00-04-02.01 (17.48 ac split)) in the Town of Volney, County of Oswego, State of New York (the “**Original Land**”); (ii) the construction on the Land of an approximately 34.6 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, switchgear, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Facility**”); and (iii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Equipment**”) (the Original Land, the Facility and Equipment are hereinafter collectively referred to as the “**Original Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer tax, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax (collectively, the “**Financial Assistance**”); and (C) the lease (or sub-lease) of the Land and the Facility by the Company (and/or the owner of the Land) to the Agency pursuant to a lease agreement; the acquisition by the Agency of an interest in the Equipment pursuant to a bill of sale from the Company; and the sublease of the Project Facility back to the Company (and/or the owner of the Land) pursuant to a sublease agreement; and

WHEREAS, contemporaneously with the submission of the Application by the Company, Volney II PV, LLC (“**Volney II**”), a Delaware limited liability company related to the Company, submitted an application to the Agency (the “**Volney II Application**”), requesting the Agency consider undertaking a project (the “**Volney II Project**”) consisting of: (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 75.73 acres of real property located at 470 Maple Avenue (tax map nos. 254.00-04-04 (58.25 ac) and part of 254.00-04-02.01 (17.48 ac split)) in the Town of Volney, County of Oswego, State of New York (the “**Volney II Original Land**”); (ii) the construction on the Volney II Original Land of an approximately 29.7 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, switchgear, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Volney II Facility**”); and (iii) the acquisition and installation in and around the Volney II Facility and/or for use in connection with the Volney II Project of various machinery, equipment, furnishings and other items of tangible personal

property (collectively the “**Volney II Equipment**”) (the Volney II Original Land, the Volney II Facility and the Volney II Equipment are hereinafter collectively referred to as the “**Volney II Original Project Facility**”); and

WHEREAS, the Agency adopted a resolution on January 25, 2023 describing the Project, the Financial Assistance and authorizing a public hearing (the “**Initial Resolution**”); and

WHEREAS, the Agency conducted a public hearing (the “**Public Hearing**”) with respect to the Project and the proposed Financial Assistance on February 21, 2023 pursuant to Section 859-a of the Act, notice of which was published on February 7, 2023 in The Post Standard, a newspaper of general circulation in the Town of Volney and the County of Oswego, New York; and

WHEREAS, in accordance with the requirements of Section 859-a of the Act, written notice of the Public Hearing dated February 7, 2023 and a copy of the Initial Resolution was delivered by the Agency by certified mail, return receipt requested, to the chief executive officer of each affected local taxing jurisdiction, including the school board and district superintendent of the Fulton City District; and

WHEREAS, subsequent to the submission of the Application and the Volney II Application and the publication and mailing of the Public Hearing notice, the Agency was advised that (A) the Facility will be constructed on approximately 59.69 acres of real property located at 535 Maple Avenue (tax map nos. 254.00-04-23 (32.10 acres) and 254.00-04-02.01 (17.48 acres) and a portion of tax map no. 254.00-40.04 (10.11 acres)) in the Town of Volney, County of Oswego, State of New York (the Original Land, as revised, the “**Land**”; and the Land, the Facility and the Equipment are hereinafter collectively referred to as the “**Project Facility**”); and (B) the Volney II Project Facility will be constructed on approximately 48.14 acres of real property located at 479 Maple Avenue (a portion of tax map no. 254.00-04-04) in the Town of Volney, County of Oswego, State of New York (the “**Volney II Land**”); and

WHEREAS, upon opening the Public Hearing, Agency staff explained the change in the composition of the Land and the Volney I Land; and

WHEREAS, taken as a whole, the differences between the Original Land and the Land and the Original Volney II Land and the Volney II Land are de minimis; and

WHEREAS, the owner of the Land and the Volney II Land is the James and Susan Hinman Irrevocable Trust and the Company will be the operator of the Project Facility; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “**SEQRA**”), the Town of Volney Planning Board (the “**Planning Board**”) previously classified the Project as a Type 1 action under SEQRA, acted as lead agency for the purpose of conducting an environmental review of the Project, and issued a negative declaration for the Project on October 12, 2022; and

WHEREAS, the Agency's involvement in the Project was unknown or was not anticipated when the Planning Board performed the SEQRA review and issued the negative declaration for the Project; and

WHEREAS, on February 23, 2023, the Agency, in recognition of the fact that, had the Agency's involvement in the Project been contemplated, it would have been an involved agency and consented to the Planning Board's lead agency status, affirmed and adopted the negative declaration issued by the Planning Board for the Project, thereby concluding the Agency's obligations under SEQRA (the "**SEQRA Resolution**"); and

WHEREAS, the Agency has considered the policy, purposes and requirements of the Act in making its determinations with respect to taking official action regarding the Project; and

WHEREAS, for purposes of exemption from State sales and use taxation as part of the Financial Assistance requested by the Company, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight; and

WHEREAS, the Agency has given due consideration to the Application and to representations by the Company that the provision of Financial Assistance: (i) will induce the Company to develop the Project Facility in the Town of Volney, County of Oswego; (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or 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; and (iii) will induce the Company to undertake the Project which will serve the purposes of the Act by advancing the health, general prosperity and economic welfare of the people of the State;

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 health, 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 Resolution and SEQRA Resolution.

- B. The Project constitutes a “project” within the meaning of the Act.
- C. The granting of the Financial Assistance will be an inducement to the Company to develop the Project in the Town of Volney, County of Oswego. The Financial Assistance consists solely of exemptions from real estate transfer taxes, real property taxes, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax.
- D. The commitment of the Agency to provide the Financial Assistance to the Company will enable the Company to acquire, construct, install, equip and complete the Project Facility.
- E. The acquisition, construction, installation, equipping and completion of the Project Facility will help prevent economic deterioration and advance the health, general prosperity and economic welfare of the people of the State.
- F. The acquisition of a controlling interest in the Project Facility by the Agency, the designation of the Company as the Agency’s agent for the acquisition, construction, installation, equipping and completion of the Project and the granting of the Financial Assistance will be an inducement to the Company to acquire, construct, install, equip and complete the Project Facility in the Town of Volney, County of Oswego, and will serve the purposes of the Act by, among other things, advancing the general prosperity and economic welfare of the inhabitants of the County of Oswego; and the granting of the Financial Assistance will assist in financing the costs of the acquisition, construction, installation, equipping and completion of the Project Facility.
- G. The Project will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or result 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 terms of this Resolution, the conditions set forth in Section 4.02 of the Agreement (as defined herein), the Agency’s approval of the PILOT schedule and the execution and delivery of the Project Agreement (as defined herein), the Agency will: (i) acquire a controlling interest in the Land and Facility pursuant to a lease agreement (and/or sublease agreement (collectively, the “**Company Lease**”) to be entered into between the Company (and/or the owner of the Land) and the Agency and accept an interest in the Equipment pursuant to a bill of sale from the Company (the “**Bill of Sale**”); (ii) sublease the Project Facility to the Company (and/or the owner of the Land) pursuant to a sublease agreement (the “**Agency Lease**” and together with the Company Lease, the Bill of Sale, the Project Agreement 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; (iii) grant the approved Financial Assistance; provided that no default shall have occurred and be continuing under the

Agreement (as hereinafter defined), the Lease Documents or any loan documents, and provided the Company has executed and delivered all documents and certificates required by the Agency in conjunction with the Agency's undertaking of the Project, and has executed and delivered all other certificates and documents necessary or appropriate for the grant of the approved Financial Assistance requested by the Company, in form and substance acceptable to the Agency, or its commercial lender(s), in connection with financing for the Project, including but not limited to, one or more mortgages in favor of the Company's commercial lender(s).

Section 4. The terms and conditions of subdivision 3 of Section 875 of the Act are herein incorporated by reference and the Company shall agree to such terms as a condition precedent to receiving or benefiting from an exemption from State sales and use tax exemptions benefits. Notwithstanding anything herein to the contrary, the amount of State and local sales and use tax exemption benefits comprising the Financial Assistance approved herein shall not exceed **\$372,960 and shall last no longer than two years from the execution and delivery of the Lease Documents.** The Agency may consider any request by the Company for increases to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services.

Section 5. Notwithstanding anything herein to the contrary, the amount of mortgage recording tax exemption benefit comprising the Financial Assistance approved herein shall not exceed **\$55,163.**

Section 6. Notwithstanding anything herein to the contrary, the amount of real property tax abatement benefit comprising the Financial Assistance approved herein shall be approximately **\$2,690,658**, which such amount reflects the total estimated real property tax exemptions for the Project Facility (which constitute those taxes that would have been paid if the Project Facility were on the tax rolls and not subject to that certain payment in lieu of tax agreement between the Company and the Agency (the "PILOT Agreement") of approximately **\$3,298,092**, less the estimated payments in lieu of taxes of approximately **\$607,434** to be made by the Company to the affected tax jurisdictions with respect to the Project Facility during the term of the PILOT Agreement. The approximate amount of estimated real property tax exemptions and the approximate amount of estimated payments in lieu of taxes are estimated based on an assumed assessed value of the Project Facility and assumed future tax rates of the affected tax jurisdictions, therefore the real property tax abatement benefit is estimated because it is calculated using the estimated real property tax exemptions. The actual amount of real property tax abatement benefit is subject to change over the term of the PILOT Agreement depending on any changes to assessed value and/or tax rates of the affected tax jurisdictions. ***Exhibit "B"*** attached hereto reflects the calculation used to determine the annual amount of the payments in lieu of taxes to be made to the affected tax jurisdictions in each year during the term of the PILOT Agreement.

Section 7. The Company may utilize, and subject to the terms of this Resolution, the Agreement and the Project Agreement, is hereby authorized to appoint, a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, "***Additional Agents***") to proceed with the construction, installation, equipping and completion of the Project, all with the same powers and the same validity as if the

Agency were acting in its own behalf, provided the Company execute, deliver and comply with the Lease Documents. The Company shall provide, or cause its Additional Agents to provide, and the Agency shall maintain, records of the amount of State and local sales and use tax exemption benefits provided to the Project; and the Company shall, and cause each Additional Agent, to make such records available to the State Commissioner of Taxation and Finance (the “**Commissioner**”) and the Agency upon request. The Agency shall, within thirty (30) days of providing any State sales and use tax exemption benefits, report to the Commissioner the amount of such benefits for the Project, identifying the Project, along with any such other information and specificity as the Commissioner may prescribe. As a condition precedent to the Company or Project’s receipt of, or benefit from, any State or local sales and use tax exemptions, the Company must acknowledge and agree to make, or cause its Additional Agents to make, all records and information regarding State and local sales and use tax exemption benefits realized by the Project available to the Agency or its designee upon request. For purposes of exemption from State sales and use taxation as part of the Financial Assistance requested, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

Section 8. As a condition precedent to the granting of the Financial Assistance, the Company agrees to execute an agreement with the Agency setting forth the preliminary undertakings of the Agency and the Company with respect to the Project. The form and substance of the proposed agreement (as set forth as on **Exhibit “A”** attached hereto and presented at this meeting) (the “**Agreement**”) are hereby approved. The Chief Executive Officer and/or the (Vice) Chairperson of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, in substantially the same form as presented at this meeting and attached hereto as **Exhibit “A”**, with changes in terms and form as shall be consistent with this Resolution and as the Chief Executive Officer or the (Vice) Chairperson shall approve. The execution thereof by the Chief Executive Officer or the (Vice) Chairperson of the Agency of the Board shall constitute conclusive evidence of such approval.

Section 9. As an additional condition precedent to the extension of Financial Assistance, the Company shall acknowledge and agree, that the Agency shall, and in some cases may, recapture from the Company or any Additional Agents (as defined herein) the State and local sales and use tax exemption (the “**Recapture Amount**”) taken or purported to be taken by any such person to which the person or Project is not entitled or which are in excess of the amounts authorized or which are for property or services not authorized or taken in cases where such Company or Additional Agents failed to comply with a material term or condition to use property or services in the manner required by the Company or Additional Agents agreement with, or for the benefit of, the Agency. Such Company or Additional Agent shall cooperate with the Agency in its efforts to recover, recapture, receive, or otherwise obtain such State sales and use exemptions benefits and shall promptly pay over any such amounts to the Agency that it requests. The failure to pay over such amounts to the Agency shall be grounds for the Commissioner to assess and determine State sales and use taxes due from the Company and/or Additional Agents under article twenty-eight of the tax law, together with any relevant penalties and interest due on such amounts. In addition, the Agency may recapture all other Financial

Assistance in the event any of the foregoing occur or there is a Deficit (as defined in the Agency's Recapture Policy).

Section 10. As another condition precedent to the extension of Financial Assistance, the Company and the Agency shall execute and deliver a project agreement (the "***Project Agreement***") setting forth certain terms and conditions relative to the approved Financial Assistance.

Section 11. Subject to the due execution and delivery by the Company of the Agreement and the Project Agreement, the satisfaction of the conditions of this Resolution, the Agreement, the Project Agreement and the payment by the Company of any attendant fees due to or incurred by the Agency, the Company is hereby appointed the true and lawful agent of the Agency to proceed with the construction, installation, equipping and completion of the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf. The appointment made by this Section shall not be effective until the Agreement and the Project Agreement and an Environmental Compliance and Indemnification Agreement (as defined herein) by the Company in favor of the Agency have been duly executed and delivered by the Company.

Section 12. The Chief Executive Officer and/or the (Vice) Chairperson of the Board, acting individually, 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 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 and the Agreement.

Section 13. The obligation of the Agency to consummate any transaction contemplated herein or hereby is subject to and conditioned upon the execution and delivery of, among other things, an environmental compliance and indemnification agreement (the "Environmental Compliance and Indemnification Agreement") in favor of the Agency in form and substance acceptable to the Agency and its counsel by the Company, and some or all of its principals, in the discretion of the Chief Executive Officer and/or (Vice) Chairperson of the Agency.

Section 14. No covenant, stipulation, obligation or agreement contained in this Resolution or any document referred to herein 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 herein 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 15. Should the Agency's participation in the Project, or the appointments made in accordance herewith, be challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursement of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under the Act to participate in the Project, this Resolution shall

automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

Section 16. 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 17. The Chief Executive Officer and/or (Vice) Chairperson of the Agency are each 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 18. 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 consummate the Lease Documents.

Section 19. 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	
Tricia Peter-Clark				X	
Marc Greco	X				
Tim Stahl	X				
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble	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 February 23, 2023, 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 Article 7 of the Public Officers Law (the “**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 Open Meetings Law, (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 February 23, 2023.

Austin Wheelock
Chief Executive Officer

(SEAL)

EXHIBIT “A”

AGENCY/COMPANY AGREEMENT

This Agreement is between the **COUNTY OF OSWEGO INDUSTRIAL DEVELOPMENT AGENCY** (the “*Agency*”) and VOLNEY PV, LLC, a Delaware limited liability Company (the “*Company*”).

Article 1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this Agreement are the following:

1.01. The Agency is authorized and empowered by the provisions of 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 grant “financial assistance” (as defined in the Act) in connection with “Projects” (as defined in the Act) and to lease or sell the same upon such terms and conditions as the Agency may deem advisable and designate an agent for constructing, installing and equipping “projects” (as defined in the Act).

1.02. The purposes of the Act are to promote, attract, encourage and develop recreation and economically sound commerce and industry in order 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. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes, including the power to grant financial assistance, acquire and dispose of interests in real property and to appoint agents for the purpose of completion of projects undertaken by the Agency.

1.03. The Company submitted an application to the Agency (the “*Application*”), a copy of which is on file at the office of the Agency, requesting the Agency consider undertaking a project (the “*Project*”) consisting of: (A) (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 49.04 acres of real property located at 535 Maple Avenue (tax map nos. 254.00-04-23 (31.56 ac) & part of 254.00-04-02.01 (17.48 ac split)) in the Town of Volney, County of Oswego, State of New York (the “*Original Land*”); (ii) the construction on the Land of an approximately 34.6 acre solar power electric generating photovoltaic system, including, but not limited to, solar panels, inverters, transformer, switchgear, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “*Facility*”); and (iii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “*Equipment*”) (the Original Land, the Facility and Equipment are hereinafter collectively referred to as the “*Original Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer taxes, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax (collectively, the “*Financial Assistance*”); and (C) the lease (or sub-lease) of the Land and the Facility by the Company (and/or the owner of the Land) to the Agency pursuant to a lease agreement; the acquisition by the Agency of an interest in the Equipment pursuant to a

bill of sale from the Company; and the sublease of the Project Facility back to the Company (and/or the owner of the Land) pursuant to a sublease agreement.

Subsequent to the submission of the Application, the Agency was advised that the Facility would be constructed on an approximately 59.69 acres of real property located at 535 Maple Avenue (tax map nos. 254.00-04-23 (32.10 acres) and 254.00-04-02.01 (17.48 acres) and a portion of tax map no. 254.00-40.04 (10.11 acres)) (the Original Land, as revised, the “**Land**”; and the Land, the Facility and the Equipment, are hereinafter collectively referred to as the the “**Project Facility**”)

1.03(a). All documents necessary to effectuate the Agency’s undertaking of the Project and the granting of the Financial Assistance between the Agency and the Company, including but not limited to, a company lease, a bill of sale, an agency lease, a project agreement, an environmental compliance and indemnification agreement and a payment in lieu of tax agreement, shall be collectively referred to herein as the “**Lease Documents**”.

1.04. The Company hereby represents to the Agency that undertaking the Project, the designation of the Company as the Agency’s agent for the construction, installation, equipping and completion of the Project Facility, and the appointment by the Company of a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, “**Additional Agents**”): (i) will be an inducement to it to construct, install, equip and complete the Project Facility in the Town of Volney, County of Oswego (the “**County**”); and (ii) will not result in the removal of a 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 or in the abandonment of one or more plants or facilities of the Company or of any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act.

1.05. The Agency has determined that the acquisition or continuation of a controlling interest in, and the construction, installation and equipping of the Project Facility and the subleasing of the same to the Company will promote and further the purposes of the Act.

1.06 On February 23, 2023, the Agency adopted a resolution (the “**Inducement Resolution**”) agreeing, subject to the satisfaction of all conditions precedent set forth in such Resolution, to designate the Company as the Agency’s agent for the acquisition, construction, installation, equipping and completion of the Project Facility and determining that the leasing of the same to the Company will promote further purposes of the Act. For purposes of that designation, the Agency authorized as part of the approved Financial Assistance, State and local sales and use tax exemption benefits in an amount not to exceed **\$372,960**, a mortgage recording tax exemption in an amount not to exceed **\$55,163**, and the amount of real property tax abatement benefits in an approximate amount of **\$2,690,658**, which such amount reflects the total estimated real property tax exemptions for the Project Facility (which constitute those taxes that would have been paid if the Project Facility were on the tax rolls and not subject to that certain payment in lieu of tax agreement between the Company and the Agency (the “**PILOT Agreement**”) of approximately **\$3,298,092**, less the estimated payments in lieu of taxes of approximately **\$607,434** to be made by the Company to the affected tax jurisdictions with respect to the Project Facility during the term of the PILOT Agreement.

1.07 In the Resolution, subject to the execution of, and compliance with, this Agreement by the Company, and other conditions set forth in the Inducement Resolution and herein, the Agency appointed the Company as its agent for the purposes of acquisition, construction, installation, equipping and completion of the Project Facility, entering into contracts and doing all things requisite and proper for the acquisition, construction, installation, equipping and completion of the Project Facility.

Article 2. Undertakings on the Part of the Agency. Based upon the statements, representations and undertakings of the Company and subject to the conditions set forth herein, the Agency agrees as follows:

2.01. The Agency confirms that it has authorized and designated the Company as the Agency's agent for acquiring, constructing, installing, equipping and completing the Project Facility.

2.02. The Agency has adopted such proceedings and authorized the execution of such Agency documents as may be necessary or advisable for: (i) acquisition of a controlling interest in the Project Facility; (ii) appointment by the Company of Additional Agents, all for the acquisition, construction, installation, equipping and completion of the Project Facility subject to the terms of the Inducement Resolution and hereof; and (iii) the leasing or subleasing of the Project Facility to the Company, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company.

2.03. Nothing contained in this Agreement shall require the Agency to apply its funds to Project costs.

2.04. After satisfying the conditions precedent set forth in the Inducement Resolution, and in Article 3 and Section 4.02 hereof, the Company may proceed with the acquisition, construction, installation, equipping and completion of the Project Facility and the utilization of and, as necessary, the appointment of Additional Agents.

2.05 Subject to Section 4.02 hereof, the Company is appointed the true and lawful agent of the Agency for the acquisition, construction, installation, equipping and completion of the Project Facility, and to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for the acquisition, construction, installation, equipping and completion of the Project Facility, all with the same powers and the same validity as if the Agency were acting in its own behalf.

2.06. The Agency will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof. The Agency may in accordance with Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as "**SEQRA**"), undertake supplemental review of the Project. Such review to be limited to specific significant adverse environmental impacts not addressed or inadequately addressed in the Agency's review under SEQRA that arise from

changes in the proposed Project, newly discovered information or a change in the circumstances related to the Project.

Article 3. Undertakings on the Part of the Company. Based upon the statements, representations and undertakings of the Agency and subject to the conditions set forth herein, the Company agrees as follows:

3.01. (a) The Company shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the acquisition of a controlling interest in, constructing, installing, equipping and completion of the Project Facility (including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing) whether such claims or liabilities arise as a result of the Company or Additional Agents acting as agent for the Agency pursuant to this Agreement or otherwise.

(b) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove, any mechanics' or other liens against the Project Facility for labor or material furnished in connection with the acquisition, construction, installation, equipping and completion of the Project Facility.

(c) The Company shall indemnify and hold the Agency, its members, officers, employees and agents and anyone for whose acts or omissions the Agency or any one of them may be liable, harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation to the Project, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

(d) The Company shall defend, indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on the non-disclosure of information, if any, requested by the Company in accordance with Section 4.05 hereof.

(e) The defense and indemnities provided for in this Article 3 shall survive expiration or termination of this Agreement and shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

(f) The Company shall provide and carry: (i) worker's compensation and disability insurance as required by law; and (ii) comprehensive liability and property insurance with such coverages (including without limitation, owner's protective coverage for the benefit of the Agency, naming the Agency as an additional insured on all policies of coverage regarding the Project; providing the coverage with respect to the Agency be primary and non-contributory; and contractual coverage covering the indemnities herein provided for), with such limits and which

such companies as may be approved by the Agency. The Company shall provide certificates and/or policies of insurance in form satisfactory to the Agency evidencing such insurance.

(g) The Company shall include the Agency as a named insured under all public liability insurance policies obtained by the Company with respect to the Project Facility.

(h) The Company shall apply and diligently pursue all approvals, permits and consents from the State of New York, the Town of Volney, County of Oswego and any other governmental authority which approvals, permits and consents are required under applicable law for the development, construction and equipping of the Project and any related site improvements. The Company acknowledges and agrees that the Agency's findings and determinations under SEQRA do not and shall not in and of themselves (except as specifically set forth in SEQRA) satisfy or be deemed to satisfy applicable laws, regulations, rules and procedural requirements applicable to such approvals, permits and consents.

3.02. The Company agrees that, as agent for the Agency or otherwise, it will comply at the Company's sole cost and expense with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Agency and/or Company with respect to the Project Facility, the acquisition of a controlling interest therein, construction, installation, equipping and completion thereof, the operation and maintenance of the Project Facility, supplemental review of adverse environmental impacts in accordance with SEQRA and the financing of the Project. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full, including, but not limited to, Section 875 of the Act; and upon the request of either party, this Agreement shall be amended to specifically set forth any such provision or provisions.

3.03. (a) The Company agrees that, as agent for the Agency, to the extent that such provisions of law are in fact applicable (without creating an obligation by contract beyond that which is created by statute), it will comply with all the requirements Section 220 of the Labor Law of the State of New York, as amended.

(b) The Company agrees that, whenever practicable, the Company shall hire employees and Additional Agents from the Agency's Labor Market Area which is defined to include the following counties: Oswego, Jefferson, Onondaga, Madison, Oneida and Cayuga.

3.04. The Company will take such further action and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.05. If it should be determined that any State or local sales or compensatory use taxes are payable with respect to the acquisition, purchase or rental of machinery or equipment, materials or supplies in connection with the Project Facility, or are in any manner otherwise payable directly or indirectly in connection with the Project Facility, the Company shall pay the same and defend and indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

3.06. The Company shall proceed with the acquisition, construction, installation, equipping and completion of the Project Facility and advance such funds as may be necessary to accomplish such purposes. The Company may utilize, and is authorized to appoint, Additional Agents as agents of the Agency, in furtherance thereof. Any appointment of an Additional Agent is conditioned upon the Company first obtaining and providing the Agency the following:

(1) A written, executed agreement, in form and substance acceptable to the Agency, from each appointed Additional Agent which provides for: (i) the assumption by the Additional Agent, for itself, certain of the obligations under this Agreement relative to the appointment, work and purchases done and made by each appointed Additional Agent; (ii) an acknowledgement by the Additional Agent to hire from the Labor Market Area during the construction period of the Project Facility whenever practicable; (iii) an acknowledgement that the Additional Agent is obligated, to timely provide the Company with the necessary information to permit the Company, pursuant to General Municipal Law §874(8), to timely file an Annual Statement with the New York State Department of Taxation and Finance on “Annual Report of Sales and Use Tax Exemptions” (Form ST-340) regarding the value of sales and use tax exemptions the Additional Agent claimed pursuant to the agency conferred on it by the Company with respect to this Project; (iv) an acknowledgment by the Additional Agent that in order to be entitled to the exemption, the Additional Agent shall present to the supplier or other vendor of materials or equipment for the Project Facility a completed “IDA Agent or Project Operator Exempt Purchase Certificate” (Form ST-123); (v) an acknowledgment by the Additional Agent that that the failure to comply with the foregoing will result in the loss and recapture of the exemption; and (vi) such other terms and conditions as the Agency deems necessary; and

(2) A completed “IDA Appointment of Project Operator or Agent for Sales Tax Purposes” (Form ST-60) for each Additional Agent appointed within fifteen (15) days of the appointment of each Additional Agent such that the Agency can execute and deliver said form to the State Department of Taxation and Finance within thirty (30) days of appointment of each such Additional Agent.

Failure of the Company to comply with the foregoing shall nullify the appointment of any Additional Agent and may result in the loss and recapture of the Company’s exemption with respect to the Project at the sole discretion of the Agency.

The Company acknowledges that the assumption by the Additional Agent in accordance with Section 3.06(1) above, does not relieve the Company of its obligations under those provisions or any other provisions of this Agreement with respect to the Project.

3.07. The Company hereby ratifies and confirms its obligation to pay an administrative fee to the Agency in the amount of .75% of the Project costs. Such amount is due and payable in full at closing.

3.08 The Company hereby ratifies and confirms its obligation to pay an annual administrative reporting fee of \$500.00 to cover administrative and reporting requirements to comply with New York State reporting regulations on Agency assisted projects.

Article 4. General Provisions.

4.01. This Agreement shall take effect on the date of the execution hereof by the Agency and the Company and, subject to Section 4.04 hereof, shall remain in effect until the Lease Documents become effective. It is the intent of the Agency and the Company that, except as to those provisions that survive, this Agreement be superseded in its entirety by the Lease Documents.

4.02. (a) It is understood and agreed by the Agency and the Company that the grant of Financial Assistance and the execution of the Lease Documents and related documents are subject to: (i) payment by the Company of the Agency's fee and Agency's counsel and special counsel fees; (ii) obtaining all necessary governmental approvals, permits and consents of any kind required in connection with the Project Facility; (iii) approval by the members of the Agency; (iv) approval by the Company; and (v) the condition that there are no changes in New York State Law, including regulations, which prohibit or limit the Agency from fulfilling its obligations hereunder; (b) the Company, by executing this Agreement, acknowledges and agrees to make, or cause its Additional Agents whether appointed as an agent of the Agency in accordance with Section 3.06 hereof or not, to make, all records and information regarding State and local sales and use tax exemption benefits given to the Project as part of the Financial Assistance available to the Agency upon request, including but not limited to the Form ST-340 for itself and each Additional Agent; (c) the Company, by executing this Agreement, acknowledges and agrees to the terms and conditions of Section 875(3) of the Act as if such section were fully set forth herein and further agrees to cause all of its Additional Agents to acknowledge, agree and consent to same.

Without limiting the scope of the foregoing the Company acknowledges that pursuant to Section 875(3) of the Act and in accordance with the Agency's Recapture Policy (*which is published on the Agency's website or available at the Agency's office*), the Company is subject to recapture of all State sales and use tax exemption benefits (the "**Recapture Amount**") if:

- (1) the Company or its Additional Agents, if any, authorized to make purchases for the benefit of the Project are not entitled to the State sales and use tax exemption benefits; or
- (2) the State sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its subagents, if any; or
- (3) the State sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or
- (4) the Project has failed to comply with a material term or condition to use the property or services in the manner required by any project documents between the Company and the Agency.

The failure of the Company to promptly pay such Recapture Amount to the Agency will be grounds for the Commissioner to collect sales and use taxes from the Company under Article 28 of the State Tax Law, together with interest and penalties.

In addition, and in accordance with the Agency's Recapture Policy, the Agency may recapture all other Financial Assistance in the event any of the foregoing occur or there is a Deficit (as defined in the Agency's Recapture Policy). For purposes of the foregoing, the Company acknowledges and agrees that for purposes of exemption from State sales and use taxation as part of the Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the New York State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

4.03. The Company agrees that it will, within thirty (30) days of a written request for same, regardless of whether or not this matter closes or the Project Facility is completed: (i) reimburse the Agency for all reasonable and necessary expenses, including without limitation the fees and expenses of counsel to the Agency arising from, out of or in connection with the Project, and/or any documents executed in connection therewith, including, but not limited to any claims or actions taken by the Agency against the Company, Additional Agents or third parties; and (ii) indemnify the Agency from all losses, claims, damages and liabilities, in each case which the Agency may incur as a consequence of executing this Agreement or performing its obligations hereunder, including but not limited to, any obligations related to Additional Agents.

4.04. If for any reason the Lease Documents are not executed and delivered by the Company and the Agency on or before eighteen (18) months from the execution hereof, the provisions of this Agreement (other than the provisions of Articles 1.04, 2.02, 2.04, 3.01, 3.02, 3.03, 3.05, 3.06, 4.02, 4.03, 4.04, 4.05 and 4.06, which shall survive) shall unless extended by agreement of the Agency and the Company, terminate and be of no further force or effect, and following such termination neither party shall have any rights against the other party except:

(a) The Company shall pay the Agency for all expenses incurred by the Agency in connection with the acquisition, construction, installation, equipping and completion of the Project Facility;

(b) The Company shall assume and be responsible for any contracts for construction or purchase of equipment entered into by the Agency at the request of or as agent for the Company in connection with the Project Facility; and

(c) The Company will pay the out-of-pocket expenses of members of the Agency, counsel for the Agency and special Agency counsel incurred in connection with the Project and will pay the fees of counsel for the Agency and special Agency counsel for legal services relating to the Project Facility, Additional Agents or the proposed financing thereof.

4.05. The Company acknowledges that Section 875(7) of the New York General Municipal Law ("*GML*") requires the Agency to post on its website all resolutions and agreements relating to the Company's appointment as an agent of the Agency or otherwise related to the Project, including this Agreement; and Article 6 of the New York Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Company feels that there are elements of the Project or information about the Company in the Agency's possession which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or

otherwise widely disseminated would cause substantial injury to the Company's competitive position, the Company must identify such elements in writing, supply same to the Agency: (i) with respect to this Agreement, prior to or contemporaneously with the execution hereof; and (ii) with respect to all other agreements executed in connection with the Project, on or before the Closing Date, and request that such elements be kept confidential in accordance with Article 6 of the Public Officers Law. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the GML.

4.06 That every controversy, dispute or claim arising out of or relating to this Agreement shall be governed by the laws of the State of New York, without regard to its conflict-of-laws provisions that if applied might require the application of the laws of another jurisdiction; and that the Company irrevocably and expressly submits to the exclusive personal jurisdiction of the Supreme Court of the State of New York and the United States District Court for the Northern District of New York, to the exclusion of all other courts, for the purposes of litigating every controversy, dispute or claim arising out of or relating to this Agreement.

IN WITNESS WHEREOF, the parties hereto have entered in this Agreement as of _____, 2023.

**COUNTY OF OSWEGO INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Austin Wheelock
Chief Executive Officer

VOLNEY PV, LLC

By: _____
Name:
Title:

EXHIBIT “B”
PILOT SCHEDULE

Term:	20 years
Annual payments:	<p>\$5,000 per MW, (\$25,000 in year 1) 2% escalator, compounded annually</p> <p>Distribution of annual PILOT Payments will be based on the pro-rata share of each of the affected taxing jurisdictions for each respective year.</p>
Exemption:	<p>The above formula will apply only to acreage included in the Project; which shall be classified as Wholly Exempt under RPTL 412-a; the remaining portion of the tax parcel (if any) and unrelated improvements will be classified as Taxable.</p>
Decommissioning:	<p>Prior to execution and delivery of the PILOT Agreement, the Company must provide a decommissioning plan reasonably acceptable to the Agency and the host municipality, and provide the Agency with proof of a bond or other surety in the amount equal to the cost of the decommissioning.</p>

PILOT RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on February 23, 2023 at 9:00 a.m. local time, 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: Marc Greco, H. Leonard Schick, Tim Stahl, Gary T. Toth, and Barry Trimble

ABSENT: Nick Canale, Jr. and Tricia Peter-Clark

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and Austin Wheelock

The following resolution was duly offered and seconded:

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

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, 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, construct, reconstruct and install “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, Oswego PV, LLC, a Delaware limited liability company, or an entity formed or to be formed (the “Company”) submitted an application to the Agency requesting that the Agency consider undertaking a project (the “Project”) consisting of: (A) (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 78.31 acres of real property located at 447 County Route 20 (tax map no. 164.00-06-02.08) in the Town of Oswego, County of Oswego, State of New York (the “**Land**”); (ii) the construction on the Land of an approximately 22.44 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Facility**”); and (iii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Equipment**”) (the Land, the Facility and Equipment are hereinafter collectively referred to as the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer tax, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax (collectively, the “**Financial Assistance**”); and (C) the lease (or sub-lease) of the Land and the Facility by the Company (and/or the owner of the Land) to the Agency pursuant to a lease agreement; the acquisition by the Agency of an interest in the Equipment pursuant to a bill of sale from the Company; and the sublease of the Project Facility back to the Company (and/or the owner of the Land) pursuant to a sublease agreement; and

WHEREAS, the owner of the Land is Constance Simmons and the operator of the Project Facility will be the Company; and

WHEREAS, the Agency adopted a resolution on January 25, 2023 describing the Project, the Financial Assistance and authorizing a public hearing (the “**Initial Resolution**”); and

WHEREAS, the Agency conducted a public hearing (the “**Public Hearing**”) with respect to the Project and the proposed Financial Assistance on February 21, 2023 pursuant to Section 859-a of the Act, notice of which was published on February 9, 2023 in The Post Standard, a newspaper of general circulation in the County of Oswego, New York; and

WHEREAS, in accordance with the requirements of Section 859-a of the Act, written notice of the Public Hearing dated February 7, 2023 and a copy of the Initial Resolution was delivered by the Agency by certified mail, return receipt requested, to the chief executive officer of each affected local taxing jurisdiction, including the school board and district superintendent of the Oswego City School District;

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as

“**SEQRA**”), the Town of Oswego Planning Board (the “**Planning Board**”) previously classified the Project as a Type 1 action under SEQRA, acted as lead agency for the purpose of conducting an environmental review of the Project, and issued a negative declaration for the Project on January 16, 2023; and

WHEREAS, the Agency’s involvement in the Project was unknown or was not anticipated when the Planning Board performed the SEQRA review and issued the negative declaration for the Project; and

WHEREAS, on February 23, 2023, the Agency, in recognition of the fact that, had the Agency’s involvement in the Project been contemplated, it would have been an involved agency and consented to the Planning Board’s lead agency status, affirmed and adopted the negative declaration issued by the Planning Board for the Project, thereby concluding the Agency’s obligations under SEQRA (the “**SEQRA Resolution**”); and

WHEREAS, on February 23, 2023 the Agency adopted a Resolution (the “**Inducement Resolution**”) agreeing to undertake the Project and appointing the Company as its agent for purposes of completing the Project Facility; and

WHEREAS, in the Application, the Company also requested that the Agency consider a payment in lieu of taxes agreement (the “**PILOT Agreement**”) with respect to the Project Facility, pursuant to a payment in lieu of tax schedule (the “**PILOT Schedule**”), more fully described on **Exhibit “A”** attached hereto; and such schedule constitutes a deviation from the Agency’s Uniform Tax Exemption Policy (“**UTEP**”) established pursuant to Section 874(4) of the Act, but comports with other payment in lieu of taxes schedules relative to other similar projects; and

WHEREAS, in accordance with the requirements of Section 874 of the Act, by letters dated February 13, 2023 sent by certified mail, return receipt requested, the Agency gave to the chief executive officers of the affected tax jurisdictions, including the school board and district superintendent of the Oswego City School District, notice of this meeting, at which the Agency would consider the Company’s request for a PILOT schedule which deviates from the UTEP; and

WHEREAS, prior to the date hereof, the Agency responded to all communications and correspondence received from the affected taxing jurisdictions regarding the proposed deviation from the UTEP; and

WHEREAS, no representatives from the affected tax jurisdictions were present at this meeting to address the Agency regarding such proposed deviation from the UTEP; and

WHEREAS, the Agency has given due consideration to the Application and to the representations by the Company that the provision of Financial Assistance: (i) will induce the Company to develop the Project Facility in the Town of Oswego, County of Oswego; (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or 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; and (iii) the Project will serve the purposes of the Act by advancing the health, general prosperity and economic welfare of the people of the State.

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 health, 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 adopted in connection with this proposed Project (collectively, the “Resolutions”).

Section 3. 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 PILOT Schedule, as set forth in the **Exhibit “A”** attached hereto, the PILOT Schedule is hereby approved subject to the terms and conditions of the Resolutions. The Chief Executive Officer and the (Vice) Chairperson of the Agency are each hereby authorized to execute and deliver a PILOT Agreement and any related documents reflecting the PILOT Schedule in a form substantially similar to PILOT agreements used in similar transactions with the Agency which is acceptable to the Chief Executive Officer or the (Vice) Chairperson upon advice of counsel.

Section 4. No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein 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 herein 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 5. 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 6. The Chief Executive Officer and/or (Vice) Chairperson of the Agency are 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 7. 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, including, but not limited to, a PILOT Agreement.

Section 8. 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	
Tricia Peter-Clark				X	
Marc Greco	X				
Tim Stahl	X				
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble	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 February 23, 2023, 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 Article 7 of the Public Officers Law (the “**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 Open Meetings Law, (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 February 23, 2023.

Austin Wheelock
Chief Executive Officer

(SEAL)

EXHIBIT “A”

PILOT SCHEDULE

Term: 20 years

Annual payments: \$5,000 per MW, (\$15,000 in year 1) 2% escalator, compounded annually

Distribution of annual PILOT Payments will be based on the pro-rata share of each of the affected taxing jurisdictions for each respective year.

Exemption: The above formula will apply only to acreage included in the Project; which shall be classified as Wholly Exempt under RPTL 412-a; the remaining portion of the tax parcel (if any) and unrelated improvements will be classified as Taxable.

Decommissioning: Prior to execution and delivery of the PILOT Agreement, the Company must provide a decommissioning plan reasonably acceptable to the Agency and the host municipality, and provide the Agency with proof of a bond or other surety in the amount equal to the cost of the decommissioning.

FINAL APPROVING RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on February 23, 2023 at 9:00 a.m. local time, 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: Marc Greco, H. Leonard Schick, Tim Stahl, Gary T. Toth, and Barry Trimble

ABSENT: Nick Canale, Jr. and Tricia Peter-Clark

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and Austin Wheelock

The following resolution was duly offered and seconded:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS BY THE AGENCY IN CONNECTION WITH A 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, 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, construct, reconstruct and install “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, Volney PV, LLC, a Delaware limited liability company, or an entity formed or to be formed by it or on its behalf (the “**Company**”), submitted an application to the Agency on or about January 19, 2023 (the “**Application**”), a copy of which is on file at the office of the Agency, requesting the Agency consider undertaking a project (the “**Project**”) consisting of: (A) (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 49.04 acres of real property located at 535 Maple Avenue (tax map nos. 254.00-04-23 (31.56 ac) & part of 254.00-04-02.01 (17.48 ac split)) in the Town of Volney, County of Oswego, State of New York (the “**Original Land**”); (ii) the construction on the Land of an approximately 34.6 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, switchgear, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Facility**”); and (iii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Equipment**”) (the Original Land, the Facility and Equipment are hereinafter collectively referred to as the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer tax, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax (collectively, the “**Financial Assistance**”); and (C) the lease (or sub-lease) of the Land and the Facility by the Company (and/or the owner of the Land) to the Agency pursuant to a lease agreement; the acquisition by the Agency of an interest in the Equipment pursuant to a bill of sale from the Company; and the sublease of the Project Facility back to the Company (and/or the owner of the Land) pursuant to a sublease agreement; and

WHEREAS, contemporaneously with the submission of the Application by the Company, Volney II PV, LLC (“**Volney II**”), a Delaware limited liability company related to the Company, submitted an application to the Agency (the “**Volney II Application**”), requesting the Agency consider undertaking a project (the “**Volney II Project**”) consisting of: (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 75.73 acres of real property located at 470 Maple Avenue (tax map nos. 254.00-04-04 (58.25 ac) and part of 254.00-04-02.01 (17.48 ac spit)) in the Town of Volney, County of Oswego, State of New York (the “**Volney II Original Land**”); (ii) the construction on the Volney II Original Land of an approximately 29.7 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, switchgear, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Volney II Facility**”); and (iii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Volney II Equipment**”) (the Volney II Original Land, the Volney II Facility and Volney II Equipment are hereinafter collectively referred to as the “**Volney II Original Project Facility**”); and

WHEREAS, the Agency conducted a public hearing (the “**Public Hearing**”) with respect to the Project and the proposed Financial Assistance on February 21, 2023 pursuant to Section 859-a of the Act, notice of which was published on February 7, 2023 in The Post Standard, a newspaper of general circulation in the Town of Volney and the County of Oswego**WHEREAS**, in accordance with the requirements of Section 859-a of the Act, written notice of the Public Hearing dated February 7, 2023 and a certified copy of the Initial Resolution was delivered by the Agency by certified mail, return receipt requested, to the chief executive officer of each affected local taxing jurisdiction, including the school board and district superintendent of the Fulton City School District; 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 (“**UTEP**”) established pursuant to Section 874(4) of the Act; and

WHEREAS, in accordance with the requirements of Section 874 of the Act, by letters dated February 7, 2023 (the “**Deviation Letters**”) sent by certified mail, return receipt requested, the Agency gave to the chief executive officers of the affected tax jurisdictions, including the school board and district superintendent of the Fulton City School District, notice of this meeting, at which the Agency would consider the Company’s request for a PILOT schedule which deviates from the UTEP; and

WHEREAS, subsequent to the submission of the Application and the Volney II Application, the publication and mailing of the Public Hearing Notice and the mailing of the Deviation Letters, the Agency was advised that (A) the Facility will be constructed on approximately 59.69 acres of real property located at 535 Maple Avenue (tax map nos. 254.00-04-23 (32.10 acres) and 254.00-04-02.01 (17.48 acres) and a portion of tax map no. 254.00-40.04 (10.11 acres)) in the Town of Volney, County of Oswego, State of New York (the Original Land, as revised, the “**Land**”; and the Land, the Facility and the Equipment are hereinafter collectively referred to as the “**Project Facility**”); and (B) the Volney II Project Facility will be constructed on approximately 48.14 acres of real property located at 479 Maple Avenue (a portion of tax map no. 254.00-04-04) in the Town of Volney, County of Oswego, State of New York (the “**Volney II Land**”); and

WHEREAS, upon opening the Public Hearing, Agency staff explained the change in the composition of the Land and the Volney II Land; and

WHEREAS, taken as a whole, the differences between the Original Land and the Land and the Original Volney II Land and the Volney II Land are de minimis; and

WHEREAS, the owner of the Land and the Volney II Land is the James and Susan Hinman Irrevocable Trust and the Company will be the operator of the Project Facility; and

WHEREAS, prior to the date hereof, the Agency responded to all communications and correspondence received from the affected taxing jurisdictions regarding the proposed deviation from the UTEP; and

WHEREAS, no representatives from the affected taxing jurisdictions were present at this

meeting to address the Agency regarding such proposed deviation from the UTEP; and

WHEREAS, the Agency adopted a resolution on January 25, 2023 (the “*Initial Resolution*”) entitled:

RESOLUTION DETERMINING THAT THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A CERTAIN FACILITY AT THE REQUEST OF VOLNEY PV, LLC 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; and

WHEREAS, the Agency adopted a resolution on February 23, 2023 (the “*SEQRA Resolution*”) entitled:

RESOLUTION CLASSIFYING A CERTAIN PROJECT AS A TYPE 1 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; and

WHEREAS, the Agency adopted a resolution on February 23, 2023 (the “*Inducement Resolution*”) entitled:

RESOLUTION AUTHORIZING THE UNDERTAKING OF THE ACQUISITION, CONSTRUCTION, INSTALLATION, EQUIPPING AND COMPLETION OF A CERTAIN PROJECT, APPOINTING VOLNEY PV, LLC (THE “COMPANY”) AS AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, INSTALLATION, EQUIPPING AND COMPLETION OF THE PROJECT; APPROVING CERTAIN FINANCIAL ASSISTANCE; 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; and

WHEREAS, for purposes of exemption from New York State sales and use taxation as part of the Financial Assistance requested, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the New

York State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight; and

WHEREAS, the Agency has given due consideration to the Application and to representations by the Company that the provision of Financial Assistance: (i) will induce the Company to develop the Project Facility in the Town of Volney, County of Oswego; (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or 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; and (iii) will induce the Company to undertake the Project which will serve the purposes of the Act by advancing the health, general prosperity and economic welfare of the people of the State; and

WHEREAS, the Agency adopted a resolution on February 23, 2023 (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 health, 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 in the Town of Volney, County of Oswego; and will assist the Company in the construction, installation and equipping of the Project Facility.

- c) The commitment of the Agency to provide the Financial Assistance to the Company will enable the Company to acquire, construct, install, equip and complete the Project Facility.
- d) The acquisition of a controlling interest in the Project Facility by the Agency and the designation of the Company as the Agency's agent for the acquisition, construction, installing, equipping and completion of the Project will be an inducement to the Company to acquire, construct, improve, install, equip and complete the Project Facility in the Town of Volney, County of Oswego, and will serve the purposes of the Act by, among other things, advancing the general prosperity and economic welfare of the inhabitants of the County of Oswego; and the granting of the Financial Assistance will assist in financing the costs of the acquisition, construction, installation, equipping and completion of the Project Facility.
- e) 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, the Project Agreement (as those terms are defined in the Inducement Resolution), this Resolution, the Inducement Resolution, the SEQRA Resolution and the PILOT Resolution (collectively the "**Resolutions**"), the Agency will: (A) acquire a controlling interest in the Project Facility; (B) lease the Land and Facility from the Company (and/or the respective owner of the Land) pursuant to a lease agreement between the Agency and the Company (and/or the respective owners of the Land) (the "**Company Lease**") and acquire an interest in the Equipment pursuant to one or more bills of sale from the Company (collectively, the "**Bill of Sale**"); sublease the Project Facility to the Company, pursuant to a sublease agreement 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 (the "**Agency Lease**", and together with the Company Lease, the Bill of Sale, the Agency Lease and the Project Agreement, the "**Lease Documents**"); C) 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; (D) 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 Company's lender(s), in such form and substance as shall be consistent with this Resolution and approved by the Chief Executive Officer and/or the (Vice) Chairperson of the Board 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 any lease 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 and/or the (Vice) Chairperson of the Board upon the advice of counsel to the Agency (collectively, the "**Lender Documents**"); and (E) execute and deliver any other documents necessary to effectuate the intent of the Resolutions and the granting of the Financial Assistance as contemplated by and consistent with this Resolution upon the advice of counsel to the Agency.

Section 4. The Chief Executive Officer and the (Vice) Chairperson are each hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the Lease Documents, the Lender Documents and any other 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 the Resolutions. The execution thereof by the Chief Executive Officer and/or the (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 and/or (Vice) Chairperson of the Board are 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	
Tricia Peter-Clark				X	
Marc Greco	X				
Tim Stahl	X				
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble	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 February 23, 2023, 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 Article 7 of the Public Officers Law (the “*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 Open Meetings Law, (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 February 23, 2023.

Austin Wheelock
Chief Executive Officer

(SEAL)

SEQRA RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on February 23, 2023, at 9:00 a.m. local time, 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: Marc Greco, H. Leonard Schick, Tim Stahl, Gary T. Toth, and Barry Trimble

ABSENT: Nick Canale, Jr. and Tricia Peter-Clark

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and Austin Wheelock

The following resolution was duly offered and seconded:

**RESOLUTION CLASSIFYING A CERTAIN PROJECT AS
A TYPE 1 ACTION PURSUANT TO THE STATE
ENVIRONMENTAL QUALITY REVIEW ACT AND
DETERMINING THAT THE PROJECT WILL NOT HAVE
A SIGNIFICANT ADVERSE EFFECT ON THE
ENVIRONMENT**

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, reconstruction, renovation, installation and equipping of one or more “projects” (as defined in the Act); and

WHEREAS, Volney II PV, LLC, a Delaware limited liability company, or an entity formed or to be formed on its behalf (the “**Company**”) submitted an application to the Agency on or about January 19, 2023 (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 interest (or sub-leasehold interest) in all or a portion of approximately 75.73 acres of real property located at 470 Maple Avenue (tax map nos. 254.00-04-04 (58.25 ac) & part of 254.00-04-02.01 (17.48 ac split)) in the Town of Volney, County of Oswego, State of New York (the “**Original Land**”); (ii) the construction on the Land of an approximately 29.7 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, switchgear, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Facility**”); and (iii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Equipment**”) (the Original Land, the Facility and Equipment are hereinafter collectively referred to as the “**Original Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer tax, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax (collectively, the “**Financial Assistance**”); and (C) the lease (or sub-lease) of the Land and the Facility by the Company (and/or the owner of the Land) to the Agency pursuant to a lease agreement; the acquisition by the Agency of an interest in the Equipment pursuant to a bill of sale from the Company; and the sublease of the Project Facility back to the Company (and/or the owner of the Land) pursuant to a sublease agreement; and

WHEREAS, contemporaneously with the submission of the Application by the Company, Volney I PV, LLC (“**Volney I**”), a Delaware limited liability company related to the Company, submitted an application to the Agency (the “**Volney I Application**”), requesting the Agency consider undertaking a project (the “**Volney I Project**”) consisting of: (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 49.04 acres of real property located at 535 Maple Avenue (tax map nos. 254.00-04-23 (31.56 ac) & part of 254.00-04-02.01 (17.48 ac split)) in the Town of Volney, County of Oswego, State of New York (the “**Volney I Original Land**”); (ii) the construction on the Volney I Original Land of an approximately 34.6 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, switchgear, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Volney I Facility**”); and (iii) the acquisition and installation in and around the Volney I Facility and/or for use in connection with the Volney I Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Volney I Equipment**”) (the Volney I Original Land, the Volney I Facility and the Volney I Equipment are hereinafter collectively referred to as the “**Volney I Original Project Facility**”); and

WHEREAS, subsequent to the submission of the Application the Agency was advised that (A) the Facility will be constructed on approximately 48.14 acres of real property located at 479 Maple Avenue (a portion of tax map no. 254.00-04-04) in the Town of Volney, County of Oswego, State of New York (the Original Land, as revised, the “**Land**”; and the Land, the Facility and the Equipment are hereinafter collectively referred to as the “**Project Facility**”); and (B) the Volney I Project Facility will be constructed on approximately 59.69 acres of real property located at 535 Maple Avenue (tax map nos. 254.00-04-23 (32.10 acres) and 254.00-04-02.01 (17.48 acres) and a portion of tax map no. 254.00-40.04 (10.11 acres)) in the Town of Volney, County of Oswego, State of New York (the “**Volney I Land**”); and

WHEREAS, taken as a whole, the differences between the Original Land and the Land and the Original Volney I Land and the Volney I Land are de minimis; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “**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 Project and grant of Financial Assistance constitute such an action; and

WHEREAS, to aid in the determination of whether the Project may have a significant effect upon the environment, the Company prepared an Environmental Assessment Form (the “**EAF**”); and

WHEREAS, the Town of Volney Planning Board (“**Planning Board**”) previously classified the Project as a Type 1 action under SEQRA and acted as lead agency for the purpose of conducting an environmental review of the Project; and

WHEREAS, after conducting a thorough review of the Project and its potential effects, the Planning Board determined that the Project would not result in any significant adverse environmental impacts and issued a negative declaration (“**Negative Declaration**”) for the Project on October 12, 2022; and

WHEREAS, the Agency’s involvement in the Project was unknown or was not anticipated when the Planning Board performed the SEQRA review and issued the Negative Declaration for the Project; and

WHEREAS, had the Agency’s involvement been known at the time the Planning Board conducted its environmental review of the Project, the Agency would have, as an involved agency, consented to the Planning Board’s lead agency status and been bound by the Negative Declaration that was issued for the Project; and

WHEREAS, the Project has not changed since the issuance of the Negative Declaration.

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

Section 1. Based upon an examination of the EAF prepared by the Company, the criteria contained in 6 NYCRR §617.7(c), and based further upon the Agency’s knowledge of the area surrounding the Project Facility, all the representations made by the Company in connection with the Project, and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings and determinations with respect to the Project pursuant to SEQRA:

(a) The Project consists of the components described above in the third whereas clause of this resolution;

(b) The Project constitutes a “Type 1” action (as said quoted term is defined in SEQRA) as determined by the Planning Board;

(c) The Agency, in recognition of the fact that it would have been an involved agency and consented to the Planning Board’s lead agency status, hereby reaffirms, accepts and adopts the Negative Declaration that was issued by the Planning Board for the Project, attached hereto as **Exhibit “A”**, which shall be filed in the office of the Agency in a file that is readily accessible to the public.

Section 2. 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 3. 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	
Tricia Peter-Clark				X	
Marc Greco	X				
Tim Stahl	X				
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble	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 February 23, 2023, 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 Article 7 of the Public Officers Law (the “**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 Open Meetings Law, (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 February 23, 2023.

Austin Wheelock
Chief Executive Officer

(SEAL)

EXHIBIT A
NEGATIVE DECLARATION

INDUCEMENT RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on February 23, 2023 at 9:00 a.m. local time, 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: Marc Greco, H. Leonard Schick, Tim Stahl, Gary T. Toth, and Barry Trimble

ABSENT: Nick Canale, Jr. and Tricia Peter-Clark

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and Austin Wheelock

The following resolution was duly offered and seconded:

RESOLUTION AUTHORIZING THE UNDERTAKING OF THE ACQUISITION, CONSTRUCTION, INSTALLATION, EQUIPPING AND COMPLETION OF A CERTAIN PROJECT, APPOINTING VOLNEY II PV, LLC (THE “COMPANY”) AS AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, INSTALLATION, EQUIPPING AND COMPLETION OF THE PROJECT; APPROVING CERTAIN FINANCIAL ASSISTANCE; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BETWEEN THE AGENCY AND 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, 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, construct, reconstruct and install “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, Volney II PV, LLC, a Delaware limited liability company, or an entity formed or to be formed by it or on its behalf (the “**Company**”), submitted an application to the Agency on or about January 19, 2023 (the “**Application**”), a copy of which is on file at the office of the Agency, requesting the Agency consider undertaking a project (the “**Project**”) consisting of: (A) (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 75.73 acres of real property located at 470 Maple Avenue (tax map nos. 254.00-04-04 (58.25 ac) & part of 254.00-04-02.01 (17.48 ac split)) in the Town of Volney, County of Oswego, State of New York (the “**Original Land**”); (ii) the construction on the Land of an approximately 29.7 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, switchgear, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Facility**”); and (iii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Equipment**”) (the Original Land, the Facility and Equipment are hereinafter collectively referred to as the “**Original Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer tax, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax (collectively, the “**Financial Assistance**”); and (C) the lease (or sub-lease) of the Land and the Facility by the Company (and/or the owner of the Land) to the Agency pursuant to a lease agreement; the acquisition by the Agency of an interest in the Equipment pursuant to a bill of sale from the Company; and the sublease of the Project Facility back to the Company (and/or the owner of the Land) pursuant to a sublease agreement; and

WHEREAS, contemporaneously with the submission of the Application by the Company, Volney I PV, LLC (“**Volney I**”), a Delaware limited liability company related to the Company, submitted an application to the Agency (the “**Volney I Application**”), requesting the Agency consider undertaking a project (the “**Volney I Project**”) consisting of: (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 49.04 acres of real property located at 535 Maple Avenue (tax map nos. 254.00-04-23 (31.56 ac) & part of 254.00-04-02.01 (17.48 ac split)) in the Town of Volney, County of Oswego, State of New York (the “**Volney I Original Land**”); (ii) the construction on the Volney I Original Land of an approximately 34.6 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, switchgear, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and

mechanical components and access roads (the “**Volney I Facility**”); and (iii) the acquisition and installation in and around the Volney I Facility and/or for use in connection with the Volney I Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Volney I Equipment**”) (the Volney I Original Land, the Volney I Facility and the Volney I Equipment are hereinafter collectively referred to as the “**Volney I Original Project Facility**”); and

WHEREAS, the Agency adopted a resolution on January 25, 2023 describing the Project, the Financial Assistance and authorizing a public hearing (the “**Initial Resolution**”); and

WHEREAS, the Agency conducted a public hearing (the “**Public Hearing**”) with respect to the Project and the proposed Financial Assistance on February 21, 2023 pursuant to Section 859-a of the Act, notice of which was published on February 7, 2023 in The Post Standard, a newspaper of general circulation in the Town of Volney and the County of Oswego, New York; and

WHEREAS, in accordance with the requirements of Section 859-a of the Act, written notice of the Public Hearing dated February 7, 2023 and a certified copy of the Initial Resolution was delivered by the Agency by certified mail, return receipt requested, to the chief executive officer of each affected local taxing jurisdiction, including the school board and district superintendent of the Fulton City School District; and

WHEREAS, subsequent to the submission of the Application and the Volney I Application and the publication of the Public Hearing notice, the Agency was advised that (A) the Facility will be constructed on approximately 48.14 acres of real property located at 479 Maple Avenue (a portion of tax map no. 254.00-04-04) in the Town of Volney, County of Oswego, State of New York (the Original Land, as revised, the “**Land**”); and the Land, the Facility and the Equipment are hereinafter collectively referred to as the “**Project Facility**”); and (B) the Volney I Project Facility will be constructed on approximately 59.69 acres of real property located at 535 Maple Avenue (tax map nos. 254.00-04-23 (32.10 acres) and 254.00-04-02.01 (17.48 acres) and a portion of tax map no. 254.00-40.04 (10.11 acres)) in the Town of Volney, County of Oswego, State of New York (the “**Volney I Land**”); and

WHEREAS, upon opening the Public Hearing, Agency staff explained the change in the composition of the Land and the Volney I Land; and

WHEREAS, taken as a whole, the differences between the Original Land and the Land and the Original Volney I Land and the Volney I Land are de minimis; and

WHEREAS, the owner of the Land and the Volney I Land is the James and Susan Hinman Irrevocable Trust and the Company will be the operator of the Project Facility; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “**SEORA**”), the Town of Volney Planning Board (the “**Planning Board**”) previously classified

the Project as a Type 1 action under SEQRA, acted as lead agency for the purpose of conducting an environmental review of the Project, and issued a negative declaration for the Project on October 12, 2022; and

WHEREAS, the Agency's involvement in the Project was unknown or was not anticipated when the Planning Board performed the SEQRA review and issued the negative declaration for the Project; and

WHEREAS, on February 23, 2023, the Agency, in recognition of the fact that, had the Agency's involvement in the Project been contemplated, it would have been an involved agency and consented to the Planning Board's lead agency status, affirmed and adopted the negative declaration issued by the Planning Board for the Project, thereby concluding the Agency's obligations under SEQRA (the "**SEQRA Resolution**"); and

WHEREAS, the Agency has considered the policy, purposes and requirements of the Act in making its determinations with respect to taking official action regarding the Project; and

WHEREAS, for purposes of exemption from State sales and use taxation as part of the Financial Assistance requested by the Company, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight; and

WHEREAS, the Agency has given due consideration to the Application and to representations by the Company that the provision of Financial Assistance: (i) will induce the Company to develop the Project Facility in the Town of Volney, County of Oswego; (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or 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; and (iii) will induce the Company to undertake the Project which will serve the purposes of the Act by advancing the health, general prosperity and economic welfare of the people of the State;

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 health, 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 Resolution and SEQRA Resolution.
- B. The Project constitutes a “project” within the meaning of the Act.
- C. The granting of the Financial Assistance will be an inducement to the Company to develop the Project in the Town of Volney, County of Oswego. The Financial Assistance consists solely of exemptions from real estate transfer taxes, real property taxes, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax.
- D. The commitment of the Agency to provide the Financial Assistance to the Company will enable the Company to acquire, construct, install, equip and complete the Project Facility.
- E. The acquisition, construction, installation, equipping and completion of the Project Facility will help prevent economic deterioration and advance the health, general prosperity and economic welfare of the people of the State.
- F. The acquisition of a controlling interest in the Project Facility by the Agency, the designation of the Company as the Agency’s agent for the acquisition, construction, installation, equipping and completion of the Project and the granting of the Financial Assistance will be an inducement to the Company to acquire, construct, install, equip and complete the Project Facility in the Town of Volney, County of Oswego, and will serve the purposes of the Act by, among other things, advancing the general prosperity and economic welfare of the inhabitants of the County of Oswego; and the granting of the Financial Assistance will assist in financing the costs of the acquisition, construction, installation, equipping and completion of the Project Facility.
- G. The Project will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or result 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 terms of this Resolution, the conditions set forth in Section 4.02 of the Agreement (as defined herein), the Agency’s approval of the PILOT schedule and the execution and delivery of the Project Agreement (as defined herein), the Agency will: (i) acquire a controlling interest in the Land and Facility pursuant to a lease agreement (and/or sublease agreement (collectively, the “***Company Lease***”) to be entered into between the Company (and/or the owner of the Land) and the Agency and accept an interest in the Equipment pursuant to a bill of

sale from the Company (the “**Bill of Sale**”); (ii) sublease the Project Facility to the Company (and/or the owner of the Land) pursuant to a sublease agreement (the “**Agency Lease**” and together with the Company Lease, the Bill of Sale, the Project Agreement 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; (iii) grant the approved Financial Assistance; provided that no default shall have occurred and be continuing under the Agreement (as hereinafter defined), the Lease Documents or any loan documents, and provided the Company has executed and delivered all documents and certificates required by the Agency in conjunction with the Agency’s undertaking of the Project, and has executed and delivered all other certificates and documents necessary or appropriate for the grant of the approved Financial Assistance requested by the Company, in form and substance acceptable to the Agency, or its commercial lender(s), in connection with financing for the Project, including but not limited to, one or more mortgages in favor of the Company’s commercial lender(s).

Section 4. The terms and conditions of subdivision 3 of Section 875 of the Act are herein incorporated by reference and the Company shall agree to such terms as a condition precedent to receiving or benefiting from an exemption from State sales and use tax exemptions benefits. Notwithstanding anything herein to the contrary, the amount of State and local sales and use tax exemption benefits comprising the Financial Assistance approved herein shall not exceed **\$361,771 and shall last no longer than two years from the execution and delivery of the Lease Documents.** The Agency may consider any request by the Company for increases to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services.

Section 5. Notwithstanding anything herein to the contrary, the amount of mortgage recording tax exemption benefit comprising the Financial Assistance approved herein shall not exceed **\$56,374.**

Section 6. Notwithstanding anything herein to the contrary, the amount of real property tax abatement benefit comprising the Financial Assistance approved herein shall be approximately **\$2,609,938**, which such amount reflects the total estimated real property tax exemptions for the Project Facility (which constitute those taxes that would have been paid if the Project Facility were on the tax rolls and not subject to that certain payment in lieu of tax agreement between the Company and the Agency (the “PILOT Agreement”) of approximately **\$3,199,150**, less the estimated payments in lieu of taxes of approximately **\$589,211** to be made by the Company to the affected tax jurisdictions with respect to the Project Facility during the term of the PILOT Agreement. The approximate amount of estimated real property tax exemptions and the approximate amount of estimated payments in lieu of taxes are estimated based on an assumed assessed value of the Project Facility and assumed future tax rates of the affected tax jurisdictions, therefore the real property tax abatement benefit is estimated because it is calculated using the estimated real property tax exemptions. The actual amount of real property tax abatement benefit is subject to change over the term of the PILOT Agreement depending on any changes to assessed value and/or tax rates of the affected tax jurisdictions. ***Exhibit “B”*** attached hereto reflects the calculation used to determine the annual amount of the payments in lieu of taxes to be made to the affected tax jurisdictions in each year during the term of the PILOT Agreement.

Section 7. The Company may utilize, and subject to the terms of this Resolution, the Agreement and the Project Agreement, is hereby authorized to appoint, a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, “***Additional Agents***”) to proceed with the construction, installation, equipping and completion of the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf, provided the Company execute, deliver and comply with the Lease Documents. The Company shall provide, or cause its Additional Agents to provide, and the Agency shall maintain, records of the amount of State and local sales and use tax exemption benefits provided to the Project; and the Company shall, and cause each Additional Agent, to make such records available to the State Commissioner of Taxation and Finance (the “***Commissioner***”) and the Agency upon request. The Agency shall, within thirty (30) days of providing any State sales and use tax exemption benefits, report to the Commissioner the amount of such benefits for the Project, identifying the Project, along with any such other information and specificity as the Commissioner may prescribe. As a condition precedent to the Company or Project’s receipt of, or benefit from, any State or local sales and use tax exemptions, the Company must acknowledge and agree to make, or cause its Additional Agents to make, all records and information regarding State and local sales and use tax exemption benefits realized by the Project available to the Agency or its designee upon request. For purposes of exemption from State sales and use taxation as part of the Financial Assistance requested, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

Section 8. As a condition precedent to the granting of the Financial Assistance, the Company agrees to execute an agreement with the Agency setting forth the preliminary undertakings of the Agency and the Company with respect to the Project. The form and substance of the proposed agreement (as set forth as on **Exhibit “A”** attached hereto and presented at this meeting) (the “***Agreement***”) are hereby approved. The Chief Executive Officer and/or the (Vice) Chairperson of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, in substantially the same form as presented at this meeting and attached hereto as **Exhibit “A”**, with changes in terms and form as shall be consistent with this Resolution and as the Chief Executive Officer or the (Vice) Chairperson shall approve. The execution thereof by the Chief Executive Officer or the (Vice) Chairperson of the Agency of the Board shall constitute conclusive evidence of such approval.

Section 9. As an additional condition precedent to the extension of Financial Assistance, the Company shall acknowledge and agree, that the Agency shall, and in some cases may, recapture from the Company or any Additional Agents (as defined herein) the State and local sales and use tax exemption (the “***Recapture Amount***”) taken or purported to be taken by any such person to which the person or Project is not entitled or which are in excess of the amounts authorized or which are for property or services not authorized or taken in cases where such Company or Additional Agents failed to comply with a material term or condition to use property or services in the manner required by the Company or Additional Agents agreement with, or for the benefit of, the Agency. Such Company or Additional Agent shall cooperate with the Agency in its efforts to recover, recapture, receive, or otherwise obtain such State sales and

use exemptions benefits and shall promptly pay over any such amounts to the Agency that it requests. The failure to pay over such amounts to the Agency shall be grounds for the Commissioner to assess and determine State sales and use taxes due from the Company and/or Additional Agents under article twenty-eight of the tax law, together with any relevant penalties and interest due on such amounts. In addition, the Agency may recapture all other Financial Assistance in the event any of the foregoing occur or there is a Deficit (as defined in the Agency's Recapture Policy).

Section 10. As another condition precedent to the extension of Financial Assistance, the Company and the Agency shall execute and deliver a project agreement (the "***Project Agreement***") setting forth certain terms and conditions relative to the approved Financial Assistance.

Section 11. Subject to the due execution and delivery by the Company of the Agreement and the Project Agreement, the satisfaction of the conditions of this Resolution, the Agreement, the Project Agreement and the payment by the Company of any attendant fees due to or incurred by the Agency, the Company is hereby appointed the true and lawful agent of the Agency to proceed with the construction, installation, equipping and completion of the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf. The appointment made by this Section shall not be effective until the Agreement and the Project Agreement and an Environmental Compliance and Indemnification Agreement (as defined herein) by the Company in favor of the Agency have been duly executed and delivered by the Company.

Section 12. The Chief Executive Officer and/or the (Vice) Chairperson of the Board, acting individually, 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 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 and the Agreement.

Section 13. The obligation of the Agency to consummate any transaction contemplated herein or hereby is subject to and conditioned upon the execution and delivery of, among other things, an environmental compliance and indemnification agreement (the "Environmental Compliance and Indemnification Agreement") in favor of the Agency in form and substance acceptable to the Agency and its counsel by the Company, and some or all of its principals, in the discretion of the Chief Executive Officer and/or (Vice) Chairperson of the Agency.

Section 14. No covenant, stipulation, obligation or agreement contained in this Resolution or any document referred to herein 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 herein 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 15. Should the Agency's participation in the Project, or the appointments made in accordance herewith, be challenged by any party, in the courts or otherwise, the Company shall

defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursement of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under the Act to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

Section 16. 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 17. The Chief Executive Officer and/or (Vice) Chairperson of the Agency are each 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 18. 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 consummate the Lease Documents.

Section 19. 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	
Tricia Peter-Clark				X	
Marc Greco	X				
Tim Stahl	X				
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble	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 February 23, 2023, 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 Article 7 of the Public Officers Law (the “**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 Open Meetings Law, (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 February 23, 2023.

Austin Wheelock
Chief Executive Officer

(SEAL)

EXHIBIT “A”

AGENCY/COMPANY AGREEMENT

This Agreement is between the **COUNTY OF OSWEGO INDUSTRIAL DEVELOPMENT AGENCY** (the “*Agency*”) and VOLNEY II PV, LLC, a Delaware limited liability Company (the “*Company*”).

Article 1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this Agreement are the following:

1.01. The Agency is authorized and empowered by the provisions of 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 grant “financial assistance” (as defined in the Act) in connection with “Projects” (as defined in the Act) and to lease or sell the same upon such terms and conditions as the Agency may deem advisable and designate an agent for constructing, installing and equipping “projects” (as defined in the Act).

1.02. The purposes of the Act are to promote, attract, encourage and develop recreation and economically sound commerce and industry in order 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. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes, including the power to grant financial assistance, acquire and dispose of interests in real property and to appoint agents for the purpose of completion of projects undertaken by the Agency.

1.03. The Company submitted an application to the Agency (the “*Application*”), a copy of which is on file at the office of the Agency, requesting the Agency consider undertaking a project (the “*Project*”) consisting of: (A) (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 75.73 acres of real property located at 470 Maple Avenue (tax map nos. 254.00-04-04 (58.25 ac) & part of 254.00-04-02.01 (17.48 ac split)) in the Town of Volney, County of Oswego, State of New York (the “*Original Land*”); (ii) the construction on the Land of an approximately 29.7 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, switchgear, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “*Facility*”); and (iii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “*Equipment*”) (the Original Land, the Facility and Equipment are hereinafter collectively referred to as the “*Original Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer tax, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax (collectively, the “*Financial Assistance*”); and (C) the lease (or sub-lease) of the Land and the Facility by the Company (and/or the owner of the Land) to the Agency pursuant to a lease agreement; the acquisition by the Agency of an interest in the Equipment pursuant to a

bill of sale from the Company; and the sublease of the Project Facility back to the Company (and/or the owner of the Land) pursuant to a sublease agreement.

Subsequent to the submission of the Application the Agency was advised that (A) the Facility will be constructed on approximately 48.14 acres of real property located at 479 Maple Avenue (a portion of tax map no. 254.00-04-04) in the Town of Volney, County of Oswego, State of New York (the Original Land, as revised, the “**Land**”; and the Land, the Facility and the Equipment are hereinafter collectively referred to as the “**Project Facility**”).

1.03(a). All documents necessary to effectuate the Agency’s undertaking of the Project and the granting of the Financial Assistance between the Agency and the Company, including but not limited to, a company lease, a bill of sale, an agency lease, a project agreement, an environmental compliance and indemnification agreement and a payment in lieu of tax agreement, shall be collectively referred to herein as the “**Lease Documents**”.

1.04. The Company hereby represents to the Agency that undertaking the Project, the designation of the Company as the Agency’s agent for the construction, installation, equipping and completion of the Project Facility, and the appointment by the Company of a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, “**Additional Agents**”): (i) will be an inducement to it to construct, install, equip and complete the Project Facility in the Town of Volney, County of Oswego (the “**County**”); and (ii) will not result in the removal of a 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 or in the abandonment of one or more plants or facilities of the Company or of any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act.

1.05. The Agency has determined that the acquisition or continuation of a controlling interest in, and the construction, installation and equipping of the Project Facility and the subleasing of the same to the Company will promote and further the purposes of the Act.

1.06 On February 23, 2023, the Agency adopted a resolution (the “**Inducement Resolution**”) agreeing, subject to the satisfaction of all conditions precedent set forth in such Resolution, to designate the Company as the Agency’s agent for the acquisition, construction, installation, equipping and completion of the Project Facility and determining that the leasing of the same to the Company will promote further purposes of the Act. For purposes of that designation, the Agency authorized as part of the approved Financial Assistance, State and local sales and use tax exemption benefits in an amount not to exceed **\$361,771**, a mortgage recording tax exemption in an amount not to exceed **\$56,374**, and the amount of real property tax abatement benefits in an approximate amount of **\$2,609,938**, which such amount reflects the total estimated real property tax exemptions for the Project Facility (which constitute those taxes that would have been paid if the Project Facility were on the tax rolls and not subject to that certain payment in lieu of tax agreement between the Company and the Agency (the “**PILOT Agreement**”) of approximately **\$3,199,150**, less the estimated payments in lieu of taxes of approximately **\$589,211** to be made by the Company to the affected tax jurisdictions with respect to the Project Facility during the term of the PILOT Agreement.

1.07 In the Resolution, subject to the execution of, and compliance with, this Agreement by the Company, and other conditions set forth in the Inducement Resolution and herein, the Agency appointed the Company as its agent for the purposes of acquisition, construction, installation, equipping and completion of the Project Facility, entering into contracts and doing all things requisite and proper for the acquisition, construction, installation, equipping and completion of the Project Facility.

Article 2. Undertakings on the Part of the Agency. Based upon the statements, representations and undertakings of the Company and subject to the conditions set forth herein, the Agency agrees as follows:

2.01. The Agency confirms that it has authorized and designated the Company as the Agency's agent for acquiring, constructing, installing, equipping and completing the Project Facility.

2.02. The Agency has adopted such proceedings and authorized the execution of such Agency documents as may be necessary or advisable for: (i) acquisition of a controlling interest in the Project Facility; (ii) appointment by the Company of Additional Agents, all for the acquisition, construction, installation, equipping and completion of the Project Facility subject to the terms of the Inducement Resolution and hereof; and (iii) the leasing or subleasing of the Project Facility to the Company, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company.

2.03. Nothing contained in this Agreement shall require the Agency to apply its funds to Project costs.

2.04. After satisfying the conditions precedent set forth in the Inducement Resolution, and in Article 3 and Section 4.02 hereof, the Company may proceed with the acquisition, construction, installation, equipping and completion of the Project Facility and the utilization of and, as necessary, the appointment of Additional Agents.

2.05 Subject to Section 4.02 hereof, the Company is appointed the true and lawful agent of the Agency for the acquisition, construction, installation, equipping and completion of the Project Facility, and to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for the acquisition, construction, installation, equipping and completion of the Project Facility, all with the same powers and the same validity as if the Agency were acting in its own behalf.

2.06. The Agency will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof. The Agency may in accordance with Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as "**SEQRA**"), undertake supplemental review of the Project. Such review to be limited to specific significant adverse environmental impacts not addressed or inadequately addressed in the Agency's review under SEQRA that arise from

changes in the proposed Project, newly discovered information or a change in the circumstances related to the Project.

Article 3. Undertakings on the Part of the Company. Based upon the statements, representations and undertakings of the Agency and subject to the conditions set forth herein, the Company agrees as follows:

3.01. (a) The Company shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the acquisition of a controlling interest in, constructing, installing, equipping and completion of the Project Facility (including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing) whether such claims or liabilities arise as a result of the Company or Additional Agents acting as agent for the Agency pursuant to this Agreement or otherwise.

(b) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove, any mechanics' or other liens against the Project Facility for labor or material furnished in connection with the acquisition, construction, installation, equipping and completion of the Project Facility.

(c) The Company shall indemnify and hold the Agency, its members, officers, employees and agents and anyone for whose acts or omissions the Agency or any one of them may be liable, harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation to the Project, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

(d) The Company shall defend, indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on the non-disclosure of information, if any, requested by the Company in accordance with Section 4.05 hereof.

(e) The defense and indemnities provided for in this Article 3 shall survive expiration or termination of this Agreement and shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

(f) The Company shall provide and carry: (i) worker's compensation and disability insurance as required by law; and (ii) comprehensive liability and property insurance with such coverages (including without limitation, owner's protective coverage for the benefit of the Agency, naming the Agency as an additional insured on all policies of coverage regarding the Project; providing the coverage with respect to the Agency be primary and non-contributory; and contractual coverage covering the indemnities herein provided for), with such limits and which

such companies as may be approved by the Agency. The Company shall provide certificates and/or policies of insurance in form satisfactory to the Agency evidencing such insurance.

(g) The Company shall include the Agency as a named insured under all public liability insurance policies obtained by the Company with respect to the Project Facility.

(h) The Company shall apply and diligently pursue all approvals, permits and consents from the State of New York, the Town of Volney, County of Oswego and any other governmental authority which approvals, permits and consents are required under applicable law for the development, construction and equipping of the Project and any related site improvements. The Company acknowledges and agrees that the Agency's findings and determinations under SEQRA do not and shall not in and of themselves (except as specifically set forth in SEQRA) satisfy or be deemed to satisfy applicable laws, regulations, rules and procedural requirements applicable to such approvals, permits and consents.

3.02. The Company agrees that, as agent for the Agency or otherwise, it will comply at the Company's sole cost and expense with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Agency and/or Company with respect to the Project Facility, the acquisition of a controlling interest therein, construction, installation, equipping and completion thereof, the operation and maintenance of the Project Facility, supplemental review of adverse environmental impacts in accordance with SEQRA and the financing of the Project. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full, including, but not limited to, Section 875 of the Act; and upon the request of either party, this Agreement shall be amended to specifically set forth any such provision or provisions.

3.03. (a) The Company agrees that, as agent for the Agency, to the extent that such provisions of law are in fact applicable (without creating an obligation by contract beyond that which is created by statute), it will comply with all the requirements Section 220 of the Labor Law of the State of New York, as amended.

(b) The Company agrees that, whenever practicable, the Company shall hire employees and Additional Agents from the Agency's Labor Market Area which is defined to include the following counties: Oswego, Jefferson, Onondaga, Madison, Oneida and Cayuga.

3.04. The Company will take such further action and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.05. If it should be determined that any State or local sales or compensatory use taxes are payable with respect to the acquisition, purchase or rental of machinery or equipment, materials or supplies in connection with the Project Facility, or are in any manner otherwise payable directly or indirectly in connection with the Project Facility, the Company shall pay the same and defend and indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

3.06. The Company shall proceed with the acquisition, construction, installation, equipping and completion of the Project Facility and advance such funds as may be necessary to accomplish such purposes. The Company may utilize, and is authorized to appoint, Additional Agents as agents of the Agency, in furtherance thereof. Any appointment of an Additional Agent is conditioned upon the Company first obtaining and providing the Agency the following:

(1) A written, executed agreement, in form and substance acceptable to the Agency, from each appointed Additional Agent which provides for: (i) the assumption by the Additional Agent, for itself, certain of the obligations under this Agreement relative to the appointment, work and purchases done and made by each appointed Additional Agent; (ii) an acknowledgement by the Additional Agent to hire from the Labor Market Area during the construction period of the Project Facility whenever practicable; (iii) an acknowledgement that the Additional Agent is obligated, to timely provide the Company with the necessary information to permit the Company, pursuant to General Municipal Law §874(8), to timely file an Annual Statement with the New York State Department of Taxation and Finance on “Annual Report of Sales and Use Tax Exemptions” (Form ST-340) regarding the value of sales and use tax exemptions the Additional Agent claimed pursuant to the agency conferred on it by the Company with respect to this Project; (iv) an acknowledgment by the Additional Agent that in order to be entitled to the exemption, the Additional Agent shall present to the supplier or other vendor of materials or equipment for the Project Facility a completed “IDA Agent or Project Operator Exempt Purchase Certificate” (Form ST-123); (v) an acknowledgment by the Additional Agent that that the failure to comply with the foregoing will result in the loss and recapture of the exemption; and (vi) such other terms and conditions as the Agency deems necessary; and

(2) A completed “IDA Appointment of Project Operator or Agent for Sales Tax Purposes” (Form ST-60) for each Additional Agent appointed within fifteen (15) days of the appointment of each Additional Agent such that the Agency can execute and deliver said form to the State Department of Taxation and Finance within thirty (30) days of appointment of each such Additional Agent.

Failure of the Company to comply with the foregoing shall nullify the appointment of any Additional Agent and may result in the loss and recapture of the Company’s exemption with respect to the Project at the sole discretion of the Agency.

The Company acknowledges that the assumption by the Additional Agent in accordance with Section 3.06(1) above, does not relieve the Company of its obligations under those provisions or any other provisions of this Agreement with respect to the Project.

3.07. The Company hereby ratifies and confirms its obligation to pay an administrative fee to the Agency in the amount of .75% of the Project costs. Such amount is due and payable in full at closing.

3.08 The Company hereby ratifies and confirms its obligation to pay an annual administrative reporting fee of \$500.00 to cover administrative and reporting requirements to comply with New York State reporting regulations on Agency assisted projects.

Article 4. General Provisions.

4.01. This Agreement shall take effect on the date of the execution hereof by the Agency and the Company and, subject to Section 4.04 hereof, shall remain in effect until the Lease Documents become effective. It is the intent of the Agency and the Company that, except as to those provisions that survive, this Agreement be superseded in its entirety by the Lease Documents.

4.02. (a) It is understood and agreed by the Agency and the Company that the grant of Financial Assistance and the execution of the Lease Documents and related documents are subject to: (i) payment by the Company of the Agency's fee and Agency's counsel and special counsel fees; (ii) obtaining all necessary governmental approvals, permits and consents of any kind required in connection with the Project Facility; (iii) approval by the members of the Agency; (iv) approval by the Company; and (v) the condition that there are no changes in New York State Law, including regulations, which prohibit or limit the Agency from fulfilling its obligations hereunder; (b) the Company, by executing this Agreement, acknowledges and agrees to make, or cause its Additional Agents whether appointed as an agent of the Agency in accordance with Section 3.06 hereof or not, to make, all records and information regarding State and local sales and use tax exemption benefits given to the Project as part of the Financial Assistance available to the Agency upon request, including but not limited to the Form ST-340 for itself and each Additional Agent; (c) the Company, by executing this Agreement, acknowledges and agrees to the terms and conditions of Section 875(3) of the Act as if such section were fully set forth herein and further agrees to cause all of its Additional Agents to acknowledge, agree and consent to same.

Without limiting the scope of the foregoing the Company acknowledges that pursuant to Section 875(3) of the Act and in accordance with the Agency's Recapture Policy (*which is published on the Agency's website or available at the Agency's office*), the Company is subject to recapture of all State sales and use tax exemption benefits (the "**Recapture Amount**") if:

- (1) the Company or its Additional Agents, if any, authorized to make purchases for the benefit of the Project are not entitled to the State sales and use tax exemption benefits; or
- (2) the State sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its subagents, if any; or
- (3) the State sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or
- (4) the Project has failed to comply with a material term or condition to use the property or services in the manner required by any project documents between the Company and the Agency.

The failure of the Company to promptly pay such Recapture Amount to the Agency will be grounds for the Commissioner to collect sales and use taxes from the Company under Article 28 of the State Tax Law, together with interest and penalties.

In addition, and in accordance with the Agency's Recapture Policy, the Agency may recapture all other Financial Assistance in the event any of the foregoing occur or there is a Deficit (as defined in the Agency's Recapture Policy). For purposes of the foregoing, the Company acknowledges and agrees that for purposes of exemption from State sales and use taxation as part of the Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the New York State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

4.03. The Company agrees that it will, within thirty (30) days of a written request for same, regardless of whether or not this matter closes or the Project Facility is completed: (i) reimburse the Agency for all reasonable and necessary expenses, including without limitation the fees and expenses of counsel to the Agency arising from, out of or in connection with the Project, and/or any documents executed in connection therewith, including, but not limited to any claims or actions taken by the Agency against the Company, Additional Agents or third parties; and (ii) indemnify the Agency from all losses, claims, damages and liabilities, in each case which the Agency may incur as a consequence of executing this Agreement or performing its obligations hereunder, including but not limited to, any obligations related to Additional Agents.

4.04. If for any reason the Lease Documents are not executed and delivered by the Company and the Agency on or before eighteen (18) months from the execution hereof, the provisions of this Agreement (other than the provisions of Articles 1.04, 2.02, 2.04, 3.01, 3.02, 3.03, 3.05, 3.06, 4.02, 4.03, 4.04, 4.05 and 4.06, which shall survive) shall unless extended by agreement of the Agency and the Company, terminate and be of no further force or effect, and following such termination neither party shall have any rights against the other party except:

(a) The Company shall pay the Agency for all expenses incurred by the Agency in connection with the acquisition, construction, installation, equipping and completion of the Project Facility;

(b) The Company shall assume and be responsible for any contracts for construction or purchase of equipment entered into by the Agency at the request of or as agent for the Company in connection with the Project Facility; and

(c) The Company will pay the out-of-pocket expenses of members of the Agency, counsel for the Agency and special Agency counsel incurred in connection with the Project and will pay the fees of counsel for the Agency and special Agency counsel for legal services relating to the Project Facility, Additional Agents or the proposed financing thereof.

4.05. The Company acknowledges that Section 875(7) of the New York General Municipal Law ("*GML*") requires the Agency to post on its website all resolutions and agreements relating to the Company's appointment as an agent of the Agency or otherwise related to the Project, including this Agreement; and Article 6 of the New York Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Company feels that there are elements of the Project or information about the Company in the Agency's possession which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or

otherwise widely disseminated would cause substantial injury to the Company's competitive position, the Company must identify such elements in writing, supply same to the Agency: (i) with respect to this Agreement, prior to or contemporaneously with the execution hereof; and (ii) with respect to all other agreements executed in connection with the Project, on or before the Closing Date, and request that such elements be kept confidential in accordance with Article 6 of the Public Officers Law. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the GML.

4.06 That every controversy, dispute or claim arising out of or relating to this Agreement shall be governed by the laws of the State of New York, without regard to its conflict-of-laws provisions that if applied might require the application of the laws of another jurisdiction; and that the Company irrevocably and expressly submits to the exclusive personal jurisdiction of the Supreme Court of the State of New York and the United States District Court for the Northern District of New York, to the exclusion of all other courts, for the purposes of litigating every controversy, dispute or claim arising out of or relating to this Agreement.

IN WITNESS WHEREOF, the parties hereto have entered in this Agreement as of _____, 2023.

**COUNTY OF OSWEGO INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Austin Wheelock
Chief Executive Officer

VOLNEY II PV, LLC

By: _____
Name:
Title:

EXHIBIT “B”
PILOT SCHEDULE

Term:	20 years
Annual payments:	<p>\$5,000 per MW, (\$24,250 in year 1) 2% escalator, compounded annually</p> <p>Distribution of annual PILOT Payments will be based on the pro-rata share of each of the affected taxing jurisdictions for each respective year.</p>
Exemption:	<p>The above formula will apply only to acreage included in the Project; which shall be classified as Wholly Exempt under RPTL 412-a; the remaining portion of the tax parcel (if any) and unrelated improvements will be classified as Taxable.</p>
Decommissioning:	<p>Prior to execution and delivery of the PILOT Agreement, the Company must provide a decommissioning plan reasonably acceptable to the Agency and the host municipality, and provide the Agency with proof of a bond or other surety in the amount equal to the cost of the decommissioning.</p>

SEQRA RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on February 23, 2023, at 9:00 a.m. local time, 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: Marc Greco, H. Leonard Schick, Tim Stahl, Gary T. Toth, and Barry Trimble

ABSENT: Nick Canale, Jr. and Tricia Peter-Clark

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and Austin Wheelock

The following resolution was duly offered and seconded:

**RESOLUTION CLASSIFYING A CERTAIN PROJECT AS
A TYPE 1 ACTION PURSUANT TO THE STATE
ENVIRONMENTAL QUALITY REVIEW ACT AND
DETERMINING THAT THE PROJECT WILL NOT HAVE
A SIGNIFICANT ADVERSE EFFECT ON THE
ENVIRONMENT**

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, reconstruction, renovation, installation and equipping of one or more “projects” (as defined in the Act); and

WHEREAS, Volney II PV, LLC, a Delaware limited liability company, or an entity formed or to be formed on its behalf (the “**Company**”) submitted an application to the Agency on or about January 19, 2023 (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 interest (or sub-leasehold interest) in all or a portion of approximately 75.73 acres of real property located at 470 Maple Avenue (tax map nos. 254.00-04-04 (58.25 ac) & part of 254.00-04-02.01 (17.48 ac split)) in the Town of Volney, County of Oswego, State of New York (the “**Original Land**”); (ii) the construction on the Land of an approximately 29.7 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, switchgear, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Facility**”); and (iii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Equipment**”) (the Original Land, the Facility and Equipment are hereinafter collectively referred to as the “**Original Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer tax, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax (collectively, the “**Financial Assistance**”); and (C) the lease (or sub-lease) of the Land and the Facility by the Company (and/or the owner of the Land) to the Agency pursuant to a lease agreement; the acquisition by the Agency of an interest in the Equipment pursuant to a bill of sale from the Company; and the sublease of the Project Facility back to the Company (and/or the owner of the Land) pursuant to a sublease agreement; and

WHEREAS, contemporaneously with the submission of the Application by the Company, Volney I PV, LLC (“**Volney I**”), a Delaware limited liability company related to the Company, submitted an application to the Agency (the “**Volney I Application**”), requesting the Agency consider undertaking a project (the “**Volney I Project**”) consisting of: (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 49.04 acres of real property located at 535 Maple Avenue (tax map nos. 254.00-04-23 (31.56 ac) & part of 254.00-04-02.01 (17.48 ac split)) in the Town of Volney, County of Oswego, State of New York (the “**Volney I Original Land**”); (ii) the construction on the Volney I Original Land of an approximately 34.6 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, switchgear, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Volney I Facility**”); and (iii) the acquisition and installation in and around the Volney I Facility and/or for use in connection with the Volney I Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Volney I Equipment**”) (the Volney I Original Land, the Volney I Facility and the Volney I Equipment are hereinafter collectively referred to as the “**Volney I Original Project Facility**”); and

WHEREAS, subsequent to the submission of the Application the Agency was advised that (A) the Facility will be constructed on approximately 48.14 acres of real property located at 479 Maple Avenue (a portion of tax map no. 254.00-04-04) in the Town of Volney, County of Oswego, State of New York (the Original Land, as revised, the “**Land**”; and the Land, the Facility and the Equipment are hereinafter collectively referred to as the “**Project Facility**”); and (B) the Volney I Project Facility will be constructed on approximately 59.69 acres of real property located at 535 Maple Avenue (tax map nos. 254.00-04-23 (32.10 acres) and 254.00-04-02.01 (17.48 acres) and a portion of tax map no. 254.00-40.04 (10.11 acres)) in the Town of Volney, County of Oswego, State of New York (the “**Volney I Land**”); and

WHEREAS, taken as a whole, the differences between the Original Land and the Land and the Original Volney I Land and the Volney I Land are de minimis; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “**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 Project and grant of Financial Assistance constitute such an action; and

WHEREAS, to aid in the determination of whether the Project may have a significant effect upon the environment, the Company prepared an Environmental Assessment Form (the “**EAF**”); and

WHEREAS, the Town of Volney Planning Board (“**Planning Board**”) previously classified the Project as a Type 1 action under SEQRA and acted as lead agency for the purpose of conducting an environmental review of the Project; and

WHEREAS, after conducting a thorough review of the Project and its potential effects, the Planning Board determined that the Project would not result in any significant adverse environmental impacts and issued a negative declaration (“**Negative Declaration**”) for the Project on October 12, 2022; and

WHEREAS, the Agency’s involvement in the Project was unknown or was not anticipated when the Planning Board performed the SEQRA review and issued the Negative Declaration for the Project; and

WHEREAS, had the Agency’s involvement been known at the time the Planning Board conducted its environmental review of the Project, the Agency would have, as an involved agency, consented to the Planning Board’s lead agency status and been bound by the Negative Declaration that was issued for the Project; and

WHEREAS, the Project has not changed since the issuance of the Negative Declaration.

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

Section 1. Based upon an examination of the EAF prepared by the Company, the criteria contained in 6 NYCRR §617.7(c), and based further upon the Agency’s knowledge of the area surrounding the Project Facility, all the representations made by the Company in connection with the Project, and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings and determinations with respect to the Project pursuant to SEQRA:

(a) The Project consists of the components described above in the third whereas clause of this resolution;

(b) The Project constitutes a “Type 1” action (as said quoted term is defined in SEQRA) as determined by the Planning Board;

(c) The Agency, in recognition of the fact that it would have been an involved agency and consented to the Planning Board’s lead agency status, hereby reaffirms, accepts and adopts the Negative Declaration that was issued by the Planning Board for the Project, attached hereto as **Exhibit “A”**, which shall be filed in the office of the Agency in a file that is readily accessible to the public.

Section 2. 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 3. 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	
Tricia Peter-Clark				X	
Marc Greco	X				
Tim Stahl	X				
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble	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 February 23, 2023, 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 Article 7 of the Public Officers Law (the “**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 Open Meetings Law, (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 February 23, 2023.

Austin Wheelock
Chief Executive Officer

(SEAL)

EXHIBIT A
NEGATIVE DECLARATION

FINAL APPROVING RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on February 23, 2023 at 9:00 a.m. local time, 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: Marc Greco, H. Leonard Schick, Tim Stahl, Gary T. Toth, and Barry Trimble

ABSENT: Nick Canale, Jr. and Tricia Peter-Clark

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and Austin Wheelock

The following resolution was duly offered and seconded:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS BY THE AGENCY IN CONNECTION WITH A 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, 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, construct, reconstruct and install “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, Volney PV, LLC, a Delaware limited liability company, or an entity formed or to be formed by it or on its behalf (the “**Company**”), submitted an application to the Agency on or about January 19, 2023 (the “**Application**”), a copy of which is on file at the office of the Agency, requesting the Agency consider undertaking a project (the “**Project**”) consisting of: (A) (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 49.04 acres of real property located at 535 Maple Avenue (tax map nos. 254.00-04-23 (31.56 ac) & part of 254.00-04-02.01 (17.48 ac split)) in the Town of Volney, County of Oswego, State of New York (the “**Original Land**”); (ii) the construction on the Land of an approximately 34.6 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, switchgear, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Facility**”); and (iii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Equipment**”) (the Original Land, the Facility and Equipment are hereinafter collectively referred to as the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer tax, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax (collectively, the “**Financial Assistance**”); and (C) the lease (or sub-lease) of the Land and the Facility by the Company (and/or the owner of the Land) to the Agency pursuant to a lease agreement; the acquisition by the Agency of an interest in the Equipment pursuant to a bill of sale from the Company; and the sublease of the Project Facility back to the Company (and/or the owner of the Land) pursuant to a sublease agreement; and

WHEREAS, contemporaneously with the submission of the Application by the Company, Volney II PV, LLC (“**Volney II**”), a Delaware limited liability company related to the Company, submitted an application to the Agency (the “**Volney II Application**”), requesting the Agency consider undertaking a project (the “**Volney II Project**”) consisting of: (i) the acquisition of a leasehold interest (or sub-leasehold interest) in all or a portion of approximately 75.73 acres of real property located at 470 Maple Avenue (tax map nos. 254.00-04-04 (58.25 ac) and part of 254.00-04-02.01 (17.48 ac spit)) in the Town of Volney, County of Oswego, State of New York (the “**Volney II Original Land**”); (ii) the construction on the Volney II Original Land of an approximately 29.7 acre solar power electric generating photo-voltaic system, including, but not limited to, solar panels, inverters, transformer, switchgear, single-axis trackers, racking systems, switchboards, energy storage system, steel beams, wiring, electric poles and other electrical and mechanical components and access roads (the “**Volney II Facility**”); and (iii) the acquisition and installation in and around the Facility and/or for use in connection with the Project of various machinery, equipment, furnishings and other items of tangible personal property (collectively the “**Volney II Equipment**”) (the Volney II Original Land, the Volney II Facility and Volney II Equipment are hereinafter collectively referred to as the “**Volney II Original Project Facility**”); and

WHEREAS, the Agency conducted a public hearing (the “**Public Hearing**”) with respect to the Project and the proposed Financial Assistance on February 21, 2023 pursuant to Section 859-a of the Act, notice of which was published on February 7, 2023 in The Post Standard, a newspaper of general circulation in the Town of Volney and the County of Oswego**WHEREAS**, in accordance with the requirements of Section 859-a of the Act, written notice of the Public Hearing dated February 7, 2023 and a certified copy of the Initial Resolution was delivered by the Agency by certified mail, return receipt requested, to the chief executive officer of each affected local taxing jurisdiction, including the school board and district superintendent of the Fulton City School District; 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 (“**UTEP**”) established pursuant to Section 874(4) of the Act; and

WHEREAS, in accordance with the requirements of Section 874 of the Act, by letters dated February 7, 2023 (the “**Deviation Letters**”) sent by certified mail, return receipt requested, the Agency gave to the chief executive officers of the affected tax jurisdictions, including the school board and district superintendent of the Fulton City School District, notice of this meeting, at which the Agency would consider the Company’s request for a PILOT schedule which deviates from the UTEP; and

WHEREAS, subsequent to the submission of the Application and the Volney II Application, the publication and mailing of the Public Hearing Notice and the mailing of the Deviation Letters, the Agency was advised that (A) the Facility will be constructed on approximately 59.69 acres of real property located at 535 Maple Avenue (tax map nos. 254.00-04-23 (32.10 acres) and 254.00-04-02.01 (17.48 acres) and a portion of tax map no. 254.00-40.04 (10.11 acres)) in the Town of Volney, County of Oswego, State of New York (the Original Land, as revised, the “**Land**”; and the Land, the Facility and the Equipment are hereinafter collectively referred to as the “**Project Facility**”); and (B) the Volney II Project Facility will be constructed on approximately 48.14 acres of real property located at 479 Maple Avenue (a portion of tax map no. 254.00-04-04) in the Town of Volney, County of Oswego, State of New York (the “**Volney II Land**”); and

WHEREAS, upon opening the Public Hearing, Agency staff explained the change in the composition of the Land and the Volney II Land; and

WHEREAS, taken as a whole, the differences between the Original Land and the Land and the Original Volney II Land and the Volney II Land are de minimis; and

WHEREAS, the owner of the Land and the Volney II Land is the James and Susan Hinman Irrevocable Trust and the Company will be the operator of the Project Facility; and

WHEREAS, prior to the date hereof, the Agency responded to all communications and correspondence received from the affected taxing jurisdictions regarding the proposed deviation from the UTEP; and

WHEREAS, no representatives from the affected taxing jurisdictions were present at this

meeting to address the Agency regarding such proposed deviation from the UTEP; and

WHEREAS, the Agency adopted a resolution on January 25, 2023 (the “*Initial Resolution*”) entitled:

RESOLUTION DETERMINING THAT THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A CERTAIN FACILITY AT THE REQUEST OF VOLNEY PV, LLC 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; and

WHEREAS, the Agency adopted a resolution on February 23, 2023 (the “*SEQRA Resolution*”) entitled:

RESOLUTION CLASSIFYING A CERTAIN PROJECT AS A TYPE 1 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; and

WHEREAS, the Agency adopted a resolution on February 23, 2023 (the “*Inducement Resolution*”) entitled:

RESOLUTION AUTHORIZING THE UNDERTAKING OF THE ACQUISITION, CONSTRUCTION, INSTALLATION, EQUIPPING AND COMPLETION OF A CERTAIN PROJECT, APPOINTING VOLNEY PV, LLC (THE “COMPANY”) AS AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, INSTALLATION, EQUIPPING AND COMPLETION OF THE PROJECT; APPROVING CERTAIN FINANCIAL ASSISTANCE; 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; and

WHEREAS, for purposes of exemption from New York State sales and use taxation as part of the Financial Assistance requested, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the New

York State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight; and

WHEREAS, the Agency has given due consideration to the Application and to representations by the Company that the provision of Financial Assistance: (i) will induce the Company to develop the Project Facility in the Town of Volney, County of Oswego; (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or 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; and (iii) will induce the Company to undertake the Project which will serve the purposes of the Act by advancing the health, general prosperity and economic welfare of the people of the State; and

WHEREAS, the Agency adopted a resolution on February 23, 2023 (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 health, 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 in the Town of Volney, County of Oswego; and will assist the Company in the construction, installation and equipping of the Project Facility.

- c) The commitment of the Agency to provide the Financial Assistance to the Company will enable the Company to acquire, construct, install, equip and complete the Project Facility.
- d) The acquisition of a controlling interest in the Project Facility by the Agency and the designation of the Company as the Agency's agent for the acquisition, construction, installing, equipping and completion of the Project will be an inducement to the Company to acquire, construct, improve, install, equip and complete the Project Facility in the Town of Volney, County of Oswego, and will serve the purposes of the Act by, among other things, advancing the general prosperity and economic welfare of the inhabitants of the County of Oswego; and the granting of the Financial Assistance will assist in financing the costs of the acquisition, construction, installation, equipping and completion of the Project Facility.
- e) 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, the Project Agreement (as those terms are defined in the Inducement Resolution), this Resolution, the Inducement Resolution, the SEQRA Resolution and the PILOT Resolution (collectively the "**Resolutions**"), the Agency will: (A) acquire a controlling interest in the Project Facility; (B) lease the Land and Facility from the Company (and/or the respective owner of the Land) pursuant to a lease agreement between the Agency and the Company (and/or the respective owners of the Land) (the "**Company Lease**") and acquire an interest in the Equipment pursuant to one or more bills of sale from the Company (collectively, the "**Bill of Sale**"); sublease the Project Facility to the Company, pursuant to a sublease agreement 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 (the "**Agency Lease**", and together with the Company Lease, the Bill of Sale, the Agency Lease and the Project Agreement, the "**Lease Documents**"); C) 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; (D) 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 Company's lender(s), in such form and substance as shall be consistent with this Resolution and approved by the Chief Executive Officer and/or the (Vice) Chairperson of the Board 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 any lease 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 and/or the (Vice) Chairperson of the Board upon the advice of counsel to the Agency (collectively, the "**Lender Documents**"); and (E) execute and deliver any other documents necessary to effectuate the intent of the Resolutions and the granting of the Financial Assistance as contemplated by and consistent with this Resolution upon the advice of counsel to the Agency.

Section 4. The Chief Executive Officer and the (Vice) Chairperson are each hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the Lease Documents, the Lender Documents and any other 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 the Resolutions. The execution thereof by the Chief Executive Officer and/or the (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 and/or (Vice) Chairperson of the Board are 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	
Tricia Peter-Clark				X	
Marc Greco	X				
Tim Stahl	X				
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble	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 February 23, 2023, 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 Article 7 of the Public Officers Law (the “*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 Open Meetings Law, (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 February 23, 2023.

Austin Wheelock
Chief Executive Officer

(SEAL)

SEQRA RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on February 23, 2023, at 9:00 a.m. local time, 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: Marc Greco, H. Leonard Schick, Tim Stahl, Gary T. Toth, and Barry Trimble

ABSENT: Nick Canale, Jr. and Tricia Peter-Clark

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and Austin Wheelock

The following resolution was duly offered and seconded

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

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, 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, reconstruction, renovation, installation and equipping of one or more “projects” (as defined in the Act); and

WHEREAS, TDJ Properties, LLC, a New York limited liability company (the “**Company**”), submitted an application to the Agency on or about October 31, 2022 (“**Application**”), a copy of which is on file at the office of the Agency, requesting the Agency consider undertaking a project (the “**Project**”) consisting of: (A) (i) the acquisition or continuation of a leasehold interest in all or a portion of approximately 67 acres of improved real property, being part of various parcels of certain real property located at 1850 County Route 57 in the Town of Volney, New York, Oswego County (the “**Land**”); (ii) the reconstruction and renovation of an existing building (the “**Existing Building**”) totaling approximately 786,600 square feet located on the Land (the Existing Building as reconstructed, the “**Facility**”) for the use as offices, manufacturing and warehousing space for businesses in the semi-conductor supply chain and other industries; and (iii) the acquisition of and installation in the Facility of various machinery, equipment, furnishings and other tangible personal property (the “**Equipment**”) (the Land, Facility and Equipment are hereinafter collectively referred to as the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer taxes, mortgage recording taxes (except as limited by Section 874 of the Act) and State and local sales and use taxes (collectively, the “**Financial Assistance**”); (C) the appointment of the Company and/or its designee as an agent of the Agency in connection with the acquisition, reconstruction, renovation and equipping of the Project Facility; and (D) the lease of the Land and the Facility by the Company to the Agency pursuant to a lease agreement, the acquisition of an interest in the Equipment pursuant to a bill of sale; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

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 Project and grant of Financial Assistance constitute such an action; and

WHEREAS, by resolution dated February 23, 2023, the Agency classified the Project as a Type 1 action under SEQRA and declared its intent to act as lead agency for the purpose of conducting a coordinated environmental review of the Project (the “**Lead Agency Resolution**”); and

WHEREAS, the Agency notified all involved agencies of its desire to act as lead agency, and all involved agencies consented to the Agency’s lead agency designation; and

WHEREAS, to aid the Agency in determining whether the Project may have a significant effect upon the environment, the Company has prepared and submitted to the Agency an Environmental Assessment Form (the “**EAF**”), a copy of which is on file in the office of the Agency and is readily accessible to the public; and

WHEREAS, the Agency has examined and reviewed the EAF and related Project materials in order to make a determination as to the potential significance of the Project pursuant

to SEQRA.

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

Section 1. Based upon an examination of the EAF prepared by the Company, the criteria contained in 6 NYCRR §617.7(c), and based further upon the Agency's knowledge of the area surrounding the Project Facility, all the representations made by the Company in connection with the Project, and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings and determinations with respect to the Project pursuant to SEQRA:

(a) The Project consists of the components described above in the third **WHEREAS** clauses of this resolution;

(b) The Project constitutes a "Type I Action" (as said quoted term is defined in SEQRA);

(c) The Project will not result in any significant adverse environmental impacts, and the Agency hereby issues and adopts a negative declaration pursuant to SEQRA, attached hereto as Exhibit A.

Section 2. 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 3. 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	
Tricia Peter-Clark				X	
Marc Greco	X				
Tim Stahl	X				
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble	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 February 23, 2023, 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 Article 7 of the Public Officers Law (the “**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 Open Meetings Law, (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 February 23, 2023.

Austin Wheelock
Chief Executive Officer

(SEAL)

EXHIBIT “A”
NEGATIVE DECLARATION

INDUCEMENT RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on February 23, 2023, at 9:00 a.m. local time, 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: Marc Greco, H. Leonard Schick, Tim Stahl, Gary T. Toth, and Barry Trimble

ABSENT: Nick Canale, Jr. and Tricia Peter-Clark

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and Austin Wheelock

The following resolution was duly offered and seconded

RESOLUTION AUTHORIZING THE UNDERTAKING THE ACQUISITION, RECONSTRUCTION, RENOVATION EQUIPPING AND COMPLETION OF A CERTAIN PROJECT, APPOINTING TDJ PROPERTIES, LLC (THE “COMPANY”) AS AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, RECONSTRUCTION, RENOVATION, EQUIPPING AND COMPLETION OF THE PROJECT; APPROVING CERTAIN FINANCIAL ASSISTANCE; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BETWEEN THE AGENCY AND 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, 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, reconstruction, renovation, installation and equipping of one or more “projects” (as defined in the Act); and

WHEREAS, TDJ Properties, LLC, a New York limited liability company (the “**Company**”), submitted an application to the Agency on or about October 31, 2022 (“**Application**”), a copy of which is on file at the office of the Agency, requesting the Agency consider undertaking a project (the “**Project**”) consisting of: (A) (i) the acquisition or continuation of a leasehold interest in all or a portion of approximately 67 acres of improved real property, being part of various parcels of certain real property located at 1850 County Route 57 in the Town of Volney, New York, Oswego County (the “**Land**”); (ii) the reconstruction and renovation of an existing building (the “**Existing Building**”) totaling approximately 786,600 square feet located on the Land (the Existing Building as reconstructed, the “**Facility**”) for the use as offices, manufacturing and warehousing space for businesses in the semi-conductor supply chain and other industries; and (iii) the acquisition of and installation in the Facility of various machinery, equipment, furnishings and other tangible personal property (the “**Equipment**”) (the Land, Facility and Equipment are hereinafter collectively referred to as the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer taxes, mortgage recording taxes (except as limited by Section 874 of the Act) and State and local sales and use taxes (collectively, the “**Financial Assistance**”); (C) the appointment of the Company and/or its designee as an agent of the Agency in connection with the acquisition, reconstruction, renovation and equipping of the Project Facility; and (D) the lease of the Land and the Facility by the Company to the Agency pursuant to a lease agreement, the acquisition of an interest in the Equipment pursuant to a bill of sale; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency adopted a resolution on November 29, 2022 describing the Project, the Financial Assistance and authorizing a public hearing (the “**Initial Resolution**”); and

WHEREAS, the Agency conducted a public hearing with respect to the Project and the proposed Financial Assistance on January 23, 2023 pursuant to Section 859-a of the Act, notice of which was published on January 12, 2023 in The Post-Standard, a newspaper of general circulation in the Town of Volney and County of Oswego and given to the chief executive officers of the affected tax jurisdictions by letter dated January 10, 2023; 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 (“**UTEP**”) established pursuant to Section 874(4) of the Act; and

WHEREAS, by letters dated February 13, 2023 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, prior to the date hereof, the Agency responded to all communications and correspondence received from the Affected Tax Jurisdiction regarding the proposed deviation from the UTEP; and

WHEREAS, no representatives from the Affected Tax Jurisdictions were present at this meeting to address the Agency regarding such proposed deviation from the UTEP; and

WHEREAS, in order to begin the reconstruction and renovation of the Project Facility and the acquisition of Equipment prior to the execution and delivery of final documents and agreements in connection with the Project, the Company has requested the temporary appointment of the Company as agent of the Agency for sales and use tax purposes; and

WHEREAS, in connection with the temporary appointment of the Company as agent of the Agency for sales and use tax purposes, the Agency and the Company will enter into a preliminary project agreement and certain related documents (the “*Interim Documents*”) with respect to the Project; and

WHEREAS, simultaneously with the execution of the Interim Documents, the Agency will file with the New York State Department of Taxation and Finance the form entitled “IDA Appointment of Project Sublessee or Agent for Sales Tax Purposes” (the form required to be filed pursuant to Section 874(9) of the Act) (the “*Thirty-Day Sales Tax Form*”); and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State, as amended, and the regulations of the Department of Environmental Conservation of the State promulgated thereunder (collectively referred to hereinafter as “*SEQRA*”), the Agency is required to make a determination whether the “action” (as said quoted term is defined in SEQRA) to be taken by the Agency may have a “significant impact on the environment” (as said quoted term is utilized in SEQRA) and the preliminary agreement of the Agency to undertake of the Project constitutes such an action; and

WHEREAS, on November 29, 2022, the Agency adopted a resolution classifying the Project as a Type 1 Action and declaring the intent of the Agency to be lead agency for purposes of a coordinated review pursuant to SEQRA (the “*Lead Agency Resolution*”); and

WHEREAS, on February 23, 2023, the Agency adopted a resolution classifying the Project as a Type 1 action under SEQRA and determining that the Project will not result in a significant adverse effect on the environment and issued a negative declaration for the Project (the “*SEQRA Resolution*”); and

WHEREAS, the Agency has considered the policy, purposes and requirements of the Act in making its determinations with respect to taking official action regarding the Project; and

WHEREAS, for purposes of exemption from State sales and use taxation as part of the Financial Assistance requested by the Company, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight; and

WHEREAS, the Agency has given due consideration to the Application and to representations by the Company that the provision of Financial Assistance: (i) will induce the Company to develop the Project Facility in the Town of Volney, County of Oswego; (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or 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; and (iii) will induce the Company to undertake the Project which will serve the purposes of the Act by preserving permanent, private sector jobs and advancing job opportunities, the health, general prosperity and economic welfare of the people of the State and the County of Oswego and improve their standard of living;

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 health, 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, Lead Agency and SEQRA Resolutions.
- (B) The Project constitutes a “project” within the meaning of the Act.

A. The granting of the Financial Assistance will be an inducement to the Company to develop the Project in the Town of Volney, County of Oswego. The Financial Assistance consists solely of exemptions from real estate transfer taxes, real property taxes, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax.

(C) The commitment of the Agency to provide the Financial Assistance to the Company will enable the Company to acquire, reconstruct, renovate and/or improve, install, equip and complete the Project Facility.

(D) The acquisition, reconstruction, renovation and/or improving, installation, equipping and completion of the Project and will promote employment opportunities, help prevent economic deterioration in the Town of Volney and the County of Oswego and advance the health, general prosperity and economic welfare of the people of the State.

- B. The acquisition of an interest in the Project Facility by the Agency and the designation of the Company as the Agency's agent for acquisition, reconstruction, renovation and/or improving, installation, equipping and completion of the Project and the granting of the Financial Assistance will be an inducement to the Company to acquire, reconstruct, renovate and/or improve, install, equip and complete the Project Facility in the Town of Volney, County of Oswego, and will serve the purposes of the Act by, among other things, preserving and/or creating permanent private sector jobs, promoting job opportunities, health, general prosperity and economic welfare of the inhabitants of the County of Oswego; and the granting of the Financial Assistance will assist in financing the costs of the acquisition, reconstruction, renovation and/or improving, installation, equipping and completion of the Project.
- C. The completion of the Project will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or 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.

Section 3. Subject to the due execution and delivery by the Company of the Agreement (as defined herein) and the Interim Documents, the satisfaction of the conditions of this Resolution, the Agreement and the Interim Documents, the Company is appointed the true and lawful agent of the Agency to proceed with the reconstruction, renovation, installation, equipping and completion of the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf. Notwithstanding anything in the Agreement to the contrary, provided the Company execute and deliver the Interim Documents; and satisfies the balance of the conditions set forth in this Resolution, the Interim Documents and the Agreement, the Company need not execute the Lease Documents (as defined below) prior to the effectiveness of the Company appointment as the Agency's agents.

Section 4. Subject to the terms of this Resolution, the conditions set forth in Section 4.02 of the Agreement (as defined herein), the Agency's approval of the PILOT schedule and the execution and delivery of the Project Agreement (as defined herein), the Agency will: (i) acquire or continue a controlling interest in the Land and Facility pursuant to a lease agreement (the "***Company Lease***") to be entered into between the Company and the Agency and accept an interest in the Equipment, if any, pursuant to a bill of sale from the Company (the "***Bill of Sale***"); (ii) sublease the Project

Facility to the Company pursuant to a sublease agreement (the “*Agency Lease Agreement*”, and together with the Company Lease, the Bill of Sale, the Project Agreement and any other certificates and documents deemed necessary by the Agency to undertake the Project, collectively, the “*Lease Documents*”) to be entered into among the Agency and the Company; (iv) 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 Company’s lender(s), in such form and substance as shall be consistent with this Resolution and approved by the Chief Executive Officer and/or the (Vice) Chairperson of the Board 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 any lease 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 and/or the (Vice) Chairperson of the Board upon the advice of counsel to the Agency (collectively, the “*Lender Documents*”); and (v) grant the approved Financial Assistance; provided that no default shall have occurred and be continuing under the Agreement, the Lease Documents or the Lender Documents, and provided the Company has executed and delivered all documents and certificates required by the Agency in conjunction with the Agency’s undertaking of the Project, and has executed and delivered all other certificates and documents necessary or appropriate for the grant of the approved Financial Assistance requested by the Company, in form and substance acceptable to the Agency, or its commercial lender(s), in connection with financing for the Project, including but not limited to, one or more mortgages in favor of the Company’s commercial lender(s).

Section 5. The terms and conditions of subdivision 3 of Section 875 of the Act are herein incorporated by reference and the Company shall agree to such terms as a condition precedent to receiving or benefiting from an exemption from State sales and use tax exemptions benefits. Notwithstanding anything herein to the contrary, the amount of State and local sales and use tax exemption benefit comprising the Financial Assistance approved herein shall not exceed **\$2,000,000 and shall last no longer than two years from the execution and delivery of the Agency Documents**. The Agency may consider any requests by the Company for increases to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services.

Section 6. Notwithstanding anything herein to the contrary, the amount of mortgage recording tax exemption benefit comprising the Financial Assistance approved herein shall not exceed **\$150,000**.

Section 7. Notwithstanding anything herein to the contrary, the amount of real property tax abatement benefit comprising the Financial Assistance approved herein shall be approximately **\$2,630,802**, which such amount reflects the total estimated real property tax exemptions for the Project Facility (which constitute those taxes that would have been paid if the Project Facility were on the tax rolls and not subject to that certain payment in lieu of tax agreement between the Company and the Agency (the “**PILOT Agreement**”) of approximately **\$6,270,802**, less the estimated payments in lieu of taxes of approximately **\$3,640,000** to be made by the Company to the affected tax jurisdictions with respect to the Project Facility during the term of the PILOT Agreement. The approximate amount of estimated real property tax exemptions and the approximate amount of estimated payments in lieu of taxes are estimated

based on an assumed assessed value of the Project Facility and assumed future tax rates of the affected tax jurisdictions, therefore the real property tax abatement benefit is estimated because it is calculated using the estimated real property tax exemptions. The actual amount of real property tax abatement benefit is subject to change over the term of the PILOT Agreement depending on any changes to assessed value and/or tax rates of the affected tax jurisdictions. **Exhibit "B"** attached hereto reflects the calculation used to determine the annual amount of the payments in lieu of taxes to be made to the affected tax jurisdictions in each year during the term of the PILOT Agreement.

Section 8. The Company may utilize, and subject to the terms of this Resolution, the Agreement and the Project Agreement, is hereby authorized to appoint, a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, "**Additional Agents**") to proceed with the reconstruction, renovation and/or improving, installation equipping and completion of the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf, provided the Company execute, deliver and comply with the Lease Documents and/or the Interim Documents, as applicable. . The Company shall provide, or cause its Additional Agents to provide, and the Agency shall maintain, records of the amount of State and local sales and use tax exemption benefits provided to the Project; and the Company shall, and cause each Additional Agent, to make such records available to the State Commissioner of Taxation and Finance (the "**Commissioner**") and the Agency upon request. The Agency shall, within thirty (30) days of providing any State sales and use tax exemption benefits, report to the Commissioner the amount of such benefits for the Project, identifying the Project, along with any such other information and specificity as the Commissioner may prescribe. As a condition precedent to the Company or Project's receipt of, or benefit from, any State or local sales and use tax exemptions, the Company must acknowledge and agree to make, or cause its Additional Agents to make, all records and information regarding State and local sales and use tax exemption benefits realized by the Project available to the Agency or its designee upon request. For purposes of exemption from State sales and use taxation as part of the Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

Section 9. As a condition precedent to the granting of the Financial Assistance, the Company agrees to execute an agreement with the Agency setting forth the preliminary undertakings of the Agency and the Company with respect to the Project. The form and substance of the proposed agreement (as set forth as on **Exhibit "A"** attached hereto and presented at this meeting) (the "**Agreement**") are hereby approved. The Chief Executive Officer and/or the (Vice) Chairperson of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, in substantially the same form as presented at this meeting and attached hereto as **Exhibit "A"**, with changes in terms and form as shall be consistent with this Resolution and as the Chief Executive Officer or the (Vice) Chairperson shall approve. The execution thereof by the Chief Executive Officer and/or the (Vice) Chairperson shall constitute conclusive evidence of such approval. Notwithstanding anything herein to the contrary, no Financial Assistance (other than temporary sales and use tax exemptions benefits) shall be granted to the Company until the Company has provided to the Agency written evidence that it has received all approvals required

from the Town in order to commence the renovation and reconstruction of the Project Facility; provided, however, that the Company shall not utilize any sales and use tax exemption benefits to commence the renovation and reconstruction of the Project Facility in advance of the receipt of required Town approvals.

Section 10. As an additional condition precedent to the extension of Financial Assistance, the Company shall acknowledge and agree, that the Agency shall, and in some cases may, recapture from the Company or any Additional Agents (as defined herein) the State and local sales and use tax exemption (the “***Recapture Amount***”) taken or purported to be taken by any such person to which the person or Project is not entitled or which are in excess of the amounts authorized or which are for property or services not authorized or taken in cases where such Company or Additional Agents failed to comply with a material term or condition to use property or services in the manner required by the Company or Additional Agents agreement with, or for the benefit of, the Agency. Such Company or Additional Agent shall cooperate with the Agency in its efforts to recover, recapture, receive, or otherwise obtain such State sales and use tax exemptions benefits and shall promptly pay over any such amounts to the Agency that it requests. The failure to pay over such amounts to the Agency shall be grounds for the Commissioner to assess and determine State sales and use taxes due from the Company and/or Additional Agents under article twenty-eight of the tax law, together with any relevant penalties and interest due on such amounts. In addition, the Agency may recapture all other Financial Assistance in the event any of the foregoing occur or there is a Deficit (as defined in the Agency’s Recapture Policy).

Section 11. As another condition precedent to the extension of Financial Assistance, the Company and the Agency shall execute and deliver a project agreement (the “***Project Agreement***”) setting forth certain terms and conditions relative to the approved Financial Assistance.

Section 12. Subject to the due execution and delivery by the Company of the Agreement and the Project Agreement, the satisfaction of the conditions of this Resolution, the Agreement, the Project Agreement and the payment by the Company of any attendant fees due to or incurred by the Agency, the Company is hereby appointed the true and lawful agent of the Agency to proceed with the reconstruction, renovation and/or improving, equipping and completion of the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf. The appointment made by this Section shall not be effective until the Agreement and the Project Agreement and an Environmental Compliance and Indemnification Agreement (as defined herein) by the Company in favor of the Agency have been duly executed and delivered by the Company.

Section 13. The Chief Executive Officer and/or the (Vice) Chairperson of the Board, acting individually, 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 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 and the Agreement.

Section 14. The obligation of the Agency to consummate any transaction contemplated herein or hereby is subject to and conditioned upon the execution and delivery of, among other things, an environmental compliance and indemnification agreement (the “***Environmental Compliance and Indemnification Agreement***”) in favor of the Agency in form and substance acceptable to the Agency and its counsel by the Company and some or all of its principals, in the discretion of the Chief Executive Officer and/or (Vice) Chairperson of the Agency.

Section 15. No covenant, stipulation, obligation or agreement contained in this Resolution or any document referred to herein 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 herein 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 16. Should the Agency’s participation in the Project, or the appointments made in accordance herewith, be challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursement of the Agency’s counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under the Act to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

Section 17. 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 18. The Chief Executive Officer and/or the (Vice) Chairperson of the Agency are each 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 19. 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 consummate the Lease Documents and the Lender Documents.

Section 20. 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	
Tricia Peter-Clark				X	
Marc Greco	X				
Tim Stahl	X				
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble	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 February 23, 2023, 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 Article 7 of the Public Officers Law (the “**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 Open Meetings Law, (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 February 23, 2023.

Austin Wheelock
Chief Executive Officer

(SEAL)

EXHIBIT “A”

AGENCY/COMPANY AGREEMENT

This Agreement is by and among the COUNTY OF OSWEGO INDUSTRIAL DEVELOPMENT AGENCY (the “*Agency*”) and TDJ PROPERTIES, LLC, a New York limited liability company (the “*Company*”).

Article 1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this Agreement are the following:

1.01. The Agency is authorized and empowered by the provisions of 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, as amended from time to time (collectively, the “*Act*”) to grant “financial assistance” (as defined in the Act) in connection with “Projects” (as defined in the Act) and to lease or sell the same upon such terms and conditions as the Agency may deem advisable and designate an agent for constructing, reconstructing, renovating and/or improving and equipping “projects” (as defined in the Act).

1.02. The purposes of the Act are to promote, attract, encourage and develop recreation and economically sound commerce and industry in order 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. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes, including the power to grant financial assistance, acquire and dispose of interests in real property and to appoint agents for the purpose of completion of projects undertaken by the Agency.

1.03. (a) TDJ Properties, LLC (the “*Company*”), has submitted an application to the Agency on or about October 31, 2022 (“*Application*”), a copy of which is on file at the office of the Agency, requesting the Agency consider undertaking a project (the “*Project*”) consisting of: (A) (i) the acquisition or continuation of a leasehold interest in all or a portion of approximately 67 acres of improved real property, being part of various parcels of certain real property located at 1850 County Route 57 in the Town of Volney, New York, Oswego County (the “*Land*”); (ii) the reconstruction and renovation of an existing building (the “*Existing Building*”) totaling approximately 786,600 square feet located on the Land (the Existing Building as reconstructed, the “*Facility*”) for the use as offices, manufacturing and warehousing space for businesses in the semi-conductor supply chain and other industries; and (iii) the acquisition of and installation in the Facility of various machinery, equipment, furnishings and other tangible personal property (the “*Equipment*”) (the Land, Facility and Equipment are hereinafter collectively referred to as the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer taxes, mortgage recording taxes (except as limited by Section 874 of the Act) and State and local sales and use taxes (collectively, the “*Financial Assistance*”); (C) the appointment of the Company and/or its designee as an agent of the Agency in connection with the acquisition, reconstruction, renovation and equipping of the Project Facility; and (D) the lease of the Land and the Facility by the

Company to the Agency pursuant to a lease agreement, the acquisition of an interest in the Equipment pursuant to a bill of sale; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

(b) All documents necessary to effectuate the Agency's undertaking of the Project and the granting of the Financial Assistance between the Agency and the Company, including but not limited to, a company lease, a bill of sale, an agency lease, a project agreement and an environmental compliance and indemnification agreement and a payment in lieu of tax agreement, shall be collectively referred to herein as the "**Lease Documents**".

1.04. The Company hereby represents to the Agency that undertaking the Project, the designation of the Company as the Agency's agent for the acquisition, renovation, reconstruction and/or improving, installation equipping and completion of the Project Facility, and the appointment by the Company of a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, "**Additional Agents**"): (i) will be an inducement to it to acquire, reconstruct, renovate and/or improve, equip and complete the Project Facility in the County of Oswego (the "**County**") and assist the Company in expanding and maintaining its competitive advantage in its industry; (ii) will not result in the removal of a 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 or in the abandonment of one or more plants or facilities of the Company or of any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act; and (iii) undertaking the Project will promote, create and/or preserve private sector jobs in the State. The Company hereby further represents to the Agency that the Project Facility is not primarily used in making retail sales to customers who personally visit the Facility.

1.05. The Agency has determined that the acquisition of a controlling interest in, and the reconstruction, renovation and/or improving, installation and equipping of the Project Facility and the subleasing of the same to the Company will promote and further the purposes of the Act.

1.06 On February 23, 2023, the Agency adopted a resolution (the "**Inducement Resolution**") agreeing, subject to the satisfaction of all conditions precedent set forth in such Resolution, to designate the Company as the Agency's agent for the acquisition, reconstruction, renovation and/or improving, installation, equipping and completion of the Project Facility and determining that the leasing of the same to the Company will promote further purposes of the Act. For purposes of that designation, the Agency authorized as part of the approved Financial Assistance, State and local sales and use tax exemption benefits in an amount not to exceed **\$2,000,000**, a mortgage recording tax exemption in an amount not to exceed **\$150,000**, and the amount of real property tax abatement benefits in an approximate amount of **\$2,630,802**.

1.07 In the Resolution, subject to the execution of, and compliance with, this Agreement by the Company, and other conditions set forth in the Resolution and herein, the Agency appointed the Company as its agent for the purposes of acquisition, reconstruction, renovation and/or improving, installation, equipping and completion of the Project Facility, entering into contracts and doing all things requisite and proper for the acquisition, reconstruction, renovation and/or improving, installation, equipping and completion of the Project Facility.

Article 2. Undertakings on the Part of the Agency. Based upon the statements, representations and undertakings of the Company and subject to the conditions set forth herein, the Agency agrees as follows:

2.01. The Agency confirms that it has authorized and designated the Company as the Agency's agent for acquiring, reconstructing, renovating and/or improving, installing, equipping and completing the Project Facility.

2.02. The Agency will adopt such proceedings and authorize the execution of such Agency documents as may be necessary or advisable for: (i) acquisition of a controlling interest in the Project Facility; (ii) appointment by the Company of Additional Agents, all for the acquisition, reconstruction, renovating and/or improving, installation, equipping and completion of the Project Facility subject to the terms of the Resolution and hereof; and (iii) the leasing or subleasing of the Project Facility to the Company, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company.

2.03 Nothing contained in this Agreement shall require the Agency to apply its funds to Project costs.

2.04. After satisfying the conditions precedent set forth in the Sections 2.02, 3.06 and 4.02 hereof and in the Inducement Resolution, the Company may proceed with the acquisition, reconstruction, renovation and/or improving, installation, equipping and completion of the Project Facility and the utilization of and, as necessary, the appointment of Additional Agents.

2.05 Subject to Section 4.02 hereof, the Company is appointed the true and lawful agent of the Agency for the acquisition, reconstruction, renovation and/or improving, installation, equipping and completion of the Project Facility, and to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for the acquisition, reconstruction, renovation, and/or improving, installation, equipping and completion of the Project Facility, all with the same powers and the same validity as if the Agency were acting in its own behalf.

2.06. The Agency will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof. The Agency may in accordance with Article 8 of the Environmental Conservation Law of the State, as amended, and the regulations of the Department of Environmental Conservation of the State promulgated thereunder (collectively referred to hereinafter as "***SEQRA***"), undertake supplemental review of the Project. Such review to be limited to specific significant adverse environmental impacts not addressed or inadequately addressed in the Agency's review under SEQRA that arise from changes in the proposed Project, newly discovered information or a change in the circumstances related to the Project.

Article 3. Undertakings on the Part of the Company. Based upon the statements, representations and undertakings of the Agency and subject to the conditions set forth herein, the Company agrees as follows:

3.01. (a) The Company shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the acquisition of a controlling interest in, reconstruction, renovation and/or improving, installation, equipping and completion of the Project Facility (including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing) whether such claims or liabilities arise as a result of the Company or Additional Agents acting as agent for the Agency pursuant to this Agreement or otherwise.

(b) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove, any mechanics' or other liens against the Project Facility for labor or material furnished in connection with the acquisition, reconstruction, renovation and/or improving, equipping and completion of the Project Facility.

(c) The Company shall indemnify and hold the Agency, its members, officers, employees and agents and anyone for whose acts or omissions the Agency or any one of them may be liable, harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation to the Project, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

(d) The Company shall defend, indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on the non-disclosure of information, if any, requested by the Company in accordance with Section 4.05 hereof.

(e) The defense and indemnities provided for in this Article 3 shall survive expiration or termination of this Agreement and shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

(f) The Company shall provide and carry: (i) worker's compensation and disability insurance as required by law; and (ii) comprehensive liability and property insurance with such coverages (including without limitation, owner's protective coverage for the benefit of the Agency, naming the Agency as an additional insured on all policies of coverage regarding the Project; providing the coverage with respect to the Agency be primary and non-contributory; and contractual coverage covering the indemnities herein provided for), with such limits and which such companies as may be approved by the Agency. Upon the request of the Agency, the Company shall provide certificates, endorsements and/or policies of insurance in form satisfactory to the Agency evidencing such insurance.

(g) The Company shall include the Agency as a named insured under all

public liability insurance policies obtained by the Company with respect to the Project Facility.

(h) The Company shall apply and diligently pursue all approvals, permits and consents from the State, Town of Volney (the “**Town**”), County of Oswego and any other governmental authority which approvals, permits and consents are required under applicable law for the development and reconstruction, renovation of the Project and any related site improvements. The Company acknowledges and agrees that the findings and determinations under SEQRA do not and shall not in and of themselves (except as specifically set forth in SEQRA) satisfy or be deemed to satisfy applicable laws, regulations, rules and procedural requirements applicable to such approvals, permits and consents.

3.02. The Company agrees that, as agent for the Agency or otherwise, it will comply at the Company’s sole cost and expense with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Agency and/or Company with respect to the Project Facility, the acquisition of a controlling interest therein, reconstruction, renovation and/or improving, installation, equipping and completion thereof, the operation and maintenance of the Project Facility, supplemental review of adverse environmental impacts in accordance with SEQRA and the financing of the Project. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full, including, but not limited to, Section 875 of the Act; and upon the request of any party, this Agreement shall be amended to specifically set forth any such provision or provisions.

3.03(a). The Company agrees that, as agent for the Agency, to the extent that such provisions of law are in fact applicable (without creating an obligation by contract beyond that which is created by statute), it will comply with all the requirements Section 220 of the Labor Law of the State, as amended.

3.03 (b). The Company agrees that, whenever practicable, the Company shall hire employees and Additional Agents from the Agency’s Labor Market Area which is defined to include the following counties: Oswego, Jefferson, Onondaga, Madison, Oneida and Cayuga.

3.04. The Company will take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.05. If it should be determined that any State or local sales or compensatory use taxes are payable with respect to the acquisition, purchase or rental of machinery or equipment, materials or supplies in connection with the Project Facility, or are in any manner otherwise payable directly or indirectly in connection with the Project Facility, the Company shall pay the same and defend and indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

3.06. The Company shall proceed with the acquisition, reconstruction, renovation and/or improving, installation, equipping and completion of the Project Facility and advance such funds as may be necessary to accomplish such purposes. The Company may utilize, and was authorized to appoint, Additional Agents as agents of the Agency, in furtherance thereof. Any

appointment of an Additional Agent is conditioned upon the Company first obtaining and providing the Agency the following:

(1) A written, executed agreement, in form and substance acceptable to the Agency, from each appointed Additional Agent which provides for: (i) the assumption by the Additional Agent, for itself, certain of the obligations under this Agreement relative to the appointment, work and purchases done and made by each appointed Additional Agent; (ii) an acknowledgement by the Additional Agent to hire from the Labor Market Area during the construction period of the Project Facility whenever practicable; (iii) an acknowledgement that the Additional Agent is obligated, to timely provide the Company with the necessary information to permit the Company, pursuant to General Municipal Law §874(8), to timely file an Annual Statement with the New York State Department of Taxation and Finance on “Annual Report of Sales and Use Tax Exemptions” (Form ST-340) regarding the value of sales and use tax exemptions the Additional Agent claimed pursuant to the agency conferred on it by the Company with respect to this Project; (iv) an acknowledgment by the Additional Agent that in order to be entitled to the exemption, the Additional Agent shall present to the supplier or other vendor of materials or equipment for the Project Facility a completed “IDA Agent or Project Operator Exempt Purchase Certificate” (Form ST-123); (v) an acknowledgment by the Additional Agent that that the failure to comply with the foregoing will result in the loss and recapture of the exemption; and (vi) such other terms and conditions as the Agency deems necessary; and

(2) A completed “IDA Appointment of Project Operator or Agent for Sales Tax Purposes” (Form ST-60) for each Additional Agent appointed within fifteen (15) days of the appointment of each Additional Agent such that the Agency can execute and deliver said form to the State Department of Taxation and Finance within thirty (30) days of appointment of each such Additional Agent.

Failure of the Company to comply with the foregoing shall nullify the appointment of any Additional Agent and may result in the loss and recapture of the Company’s exemption with respect to the Project at the sole discretion of the Agency.

The Company acknowledges that the assumption by the Additional Agent in accordance with Section 3.06(1) above, does not relieve the Company of its obligations under those provisions or any other provisions of this Agreement with respect to the Project.

3.07. The Company hereby ratifies and confirms its obligations to pay an administrative fee to the Agency in the amount of .75% of the Project costs. Such amount is due and payable in full at closing.

3.08. The Company hereby ratifies and confirms its obligations to pay an annual administrative reporting fee of \$500.00 to cover administrative and reporting requirements to comply with State reporting regulations on Agency assisted projects.

Article 4. General Provisions.

4.01. This Agreement shall take effect on the date of the execution hereof by the Agency and the Company and, subject to Section 4.04 hereof, shall remain in effect until the Lease Documents become effective. It is the intent of the Agency and the Company that, except as to those provisions that survive, this Agreement be superseded in its entirety by the Lease Documents.

4.02. (a) It is understood and agreed by the Agency and the Company that the grant of Financial Assistance and the execution of the Lease Documents and related documents are subject to: (i) payment by the Company of the Agency's fee and Agency's counsel and special counsel fees; (ii) obtaining all necessary governmental approvals, permits and consents of any kind required in connection with the Project Facility; (iii) approval by the members of the Agency; (iv) approval by the Company; and (iv) the condition that there are no changes in State Law, including regulations, which prohibit or limit the Agency from fulfilling its obligations hereunder; (b) the Company, by executing this Agreement, acknowledges and agrees to make, or cause its Additional Agents whether appointed as an agent of the Agency in accordance with Section 3.06 hereof or not, to make, all records and information regarding State and local sales and use tax exemption benefits given to the Project as part of the Financial Assistance available to the Agency upon request, including but not limited to the Form ST-340 for itself and each Additional Agent; (c) the Company, by executing this Agreement, acknowledges and agrees to the terms and conditions of Section 875(3) of the Act as if such section were fully set forth herein and further agrees to cause all of its Additional Agents to acknowledge, agree and consent to same. Without limiting the scope of the foregoing the Company acknowledges that pursuant to Section 875(3) of the Act and in accordance with the Agency's recapture policy, the Agency shall, and in some instances may, recover, recapture, receive or otherwise obtain from the Company the portion of the Financial Assistance (the "**Recapture Amount**") consisting of: (1) (a) that portion of the State sales tax exemption to which the Company was not entitled, which is in excess of the amount of the State sales tax exemption authorized by the Agency or which is for property or services not authorized by the Agency; or (b) the full amount of such State sales tax exemption, if the Company fails to comply with a material term or condition regarding the use of the property or services as represented to the Agency in its Application or otherwise; and (2) any interest or penalties thereon imposed by the Agency or by operation of law or by judicial order or otherwise; and (d) the failure of the Company to promptly pay such Recapture Amount to the Agency will be grounds for the Commissioner to collect sales and use taxes from the Company under Article 28 of the State Tax Law, together with interest and penalties. In accordance with the Agency's Recapture Policy, the Agency may recapture all other Financial Assistance in the event of any of the foregoing occur or there is a Job Deficit, an Investment Deficit or a Reporting Failure (each as defined in the Agency's Recapture Policy). In addition to the foregoing, the Company acknowledges and agrees that for purposes of exemption from State sales and use taxation as part of the Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

4.03. The Company agrees that it will, within thirty (30) days of a written request for

same, regardless of whether or not this matter closes or the Project Facility is completed: (i) reimburse the Agency for all reasonable and necessary expenses, including without limitation the fees and expenses of counsel to the Agency arising from, out of or in connection with the Project, and/or any documents executed in connection therewith, including, but not limited to any claims or actions taken by the Agency against the Company, Additional Agents or third parties; and (ii) indemnify the Agency from all losses, claims, damages and liabilities, in each case which the Agency may incur as a consequence of executing this Agreement or performing its obligations hereunder, including but not limited to, any obligations related to Additional Agents.

4.04. If for any reason the Lease Documents are not executed and delivered by the Company and the Agency on or before eighteen (18) months from the execution hereof, the provisions of this Agreement (other than the provisions of Articles 1.04, 2.02, 2.04, 3.01, 3.02, 3.03, 3.05, 3.06, 4.02, 4.03, 4.04, 4.05 and 4.06, which shall survive) shall unless extended by agreement of the Agency and the Company, terminate and be of no further force or effect, and following such termination neither party shall have any rights against the other party except:

(a) The Company shall pay the Agency for all expenses incurred by the Agency in connection with the acquisition, reconstruction, renovation and/or improving, installation, equipping and completion of the Project Facility;

(b) The Company shall assume and be responsible for any contracts for reconstruction, renovation or purchase of equipment entered into by the Agency at the request of or as agent for the Company in connection with the Project Facility; and

(c) The Company will pay the out-of-pocket expenses of members of the Agency, counsel for the Agency and special Agency counsel incurred in connection with the Project and will pay the fees of counsel for the Agency and special Agency counsel for legal services relating to the Project Facility, Additional Agents or the proposed financing thereof.

4.05. The Company acknowledges that Section 875(7) of the State General Municipal Law (“GML”) requires the Agency to post on its website all resolutions and agreements relating to the Company’s appointment as an agent of the Agency or otherwise related to the Project, including this Agreement; and Article 6 of the State Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Company feels that there are elements of the Project or information about the Company in the Agency’s possession which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the Company’s competitive position, the Company must identify such elements in writing, supply same to the Agency: (i) with respect to this Agreement, prior to or contemporaneously with the execution hereof; and (ii) with respect to all other agreements executed in connection with the Project, on or before the Closing Date, and request that such elements be kept confidential in accordance with Article 6 of the Public Officers Law. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the GML.

4.06 That every controversy, dispute or claim arising out of or relating to this Agreement shall be governed by the laws of the State, without regard to its conflict-of-laws provisions that if applied might require the application of the laws of another jurisdiction; and that the Company irrevocably and expressly submits to the exclusive personal jurisdiction of the Supreme Court of the State and the United States District Court for the Northern District of the State, to the exclusion of all other courts, for the purposes of litigating every controversy, dispute or claim arising out of or relating to this Agreement.

IN WITNESS WHEREOF, the parties hereto have entered in this Agreement as of _____, 2023.

**COUNTY OF OSWEGO INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Austin Wheelock
Chief Executive Officer

TDJ PROPERTIES, LLC

By: _____
Name:
Title:

EXHIBIT “B”

PILOT SCHEDULE

Term: 20 Years

Annual payments: Fixed amount per year based on the following schedule:

<u>Years</u>	<u>Fixed Amount Per Year</u>
1-5	\$125,000
6-10	165,000
11-12	185,000
13-14	205,000
15-16	215,000
17-18	235,000
19-20	255,000

Distribution of annual PILOT Payments will be based on the pro-rata share of each of the taxing authorities for each respective year.

PILOT RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on February 23, 2023, at 9:00 a.m. local time, 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: Marc Greco, H. Leonard Schick, Tim Stahl, Gary T. Toth, and Barry Trimble

ABSENT: Nick Canale, Jr. and Tricia Peter-Clark

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and Austin Wheelock

The following resolution was duly offered and seconded

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 TDJ PROPERTIES LLC

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, 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, reconstruction, renovation, installation and equipping of one or more “projects” (as defined in the Act); and

WHEREAS, TDJ Properties, LLC, a New York limited liability company (the “**Company**”), submitted an application to the Agency on or about October 31, 2022 (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 or continuation of a leasehold interest in all or a portion of approximately 67 acres of improved real property, being part of various parcels of certain real property located at 1850 County Route 57 in the Town of Volney, New York, Oswego County (the “**Land**”); (ii) the reconstruction and renovation of an existing building (the “**Existing Building**”) totaling approximately 786,600 square feet located on the Land (the Existing Building as reconstructed, the “**Facility**”) for the use as offices, manufacturing and warehousing space for businesses in the semi-conductor supply chain and other industries; and (iii) the acquisition of and installation in the Facility of various machinery, equipment, furnishings and other tangible personal property (the “**Equipment**”) (the Land, Facility and Equipment are hereinafter collectively referred to as the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer taxes, mortgage recording taxes (except as limited by Section 874 of the Act) and State and local sales and use taxes (collectively, the “**Financial Assistance**”); (C) the appointment of the Company and/or its designee as an agent of the Agency in connection with the acquisition, reconstruction, renovation and equipping of the Project Facility; and (D) the lease of the Land and the Facility by the Company to the Agency pursuant to a lease agreement, the acquisition of an interest in the Equipment pursuant to a bill of sale; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency adopted a resolution on November 29, 2022 describing the Project, the Financial Assistance and authorizing a public hearing (the “**Initial Resolution**”); and

WHEREAS, the Agency conducted a public hearing with respect to the Project and the proposed Financial Assistance on January 23, 2023 pursuant to Section 859-a of the Act, notice of which was published on January 12, 2023 in The Post-Standard, a newspaper of general circulation in the Town of Volney and given to the chief executive officers of the affected tax jurisdictions by letter dated January 10, 2023; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State, as amended, and the regulations of the Department of Environmental Conservation of the State promulgated thereunder (collectively referred to hereinafter as “**SEQRA**”), the Agency is required to make a determination whether the “action” (as said quoted term is defined in SEQRA) to be taken by the Agency may have a “significant impact on the environment” (as said quoted term is utilized in SEQRA) and the preliminary agreement of the Agency to undertake of the Project constitutes such an action; and

WHEREAS, on November 29, 2022, the Agency adopted a resolution classifying the Project as a Type 1 Action and declaring the intent of the Agency to be lead agency for purposes of a coordinated review pursuant to SEQRA (the “**Lead Agency Resolution**”); and

WHEREAS, on February 23, 2023 the Agency adopted a Resolution (the “**Inducement Resolution**”) agreeing to undertake the Project and appointing the Companies as its agents for purposes of completing the Project Facility; and

WHEREAS, on February 23, 2023, the Agency adopted a resolution classifying the Project as a Type 1 action under SEQRA and determining that the Project will not result in a significant adverse effect on the environment and issued a negative declaration for the Project (the “**SEQRA Resolution**”); and

WHEREAS, in the Application, the Company also requested that the Agency consider a payment in lieu of taxes agreement (the “**PILOT Agreement**”) with respect to the Project Facility, pursuant to a payment in lieu of tax schedule (the “**PILOT Schedule**”), more fully described on **Exhibit “A”** attached hereto; and such schedule constitutes a deviation from the Agency’s Uniform Tax Exemption Policy (“**UTEP**”) established pursuant to Section 874(4) of the Act, but comports with other payment in lieu of taxes schedules relative to other similar projects; and

WHEREAS, by letters dated February 13, 2023, the Agency gave to the chief executive officers of the affected taxing jurisdictions notice pursuant to Section 874 of the Act of this meeting at which the Agency would consider the Companies’ request for a PILOT schedule which deviates from the UTEP; and

WHEREAS, prior to the date hereof, the Agency responded to all communications and correspondence received from the affected taxing jurisdictions regarding the proposed deviation from the UTEP; and

WHEREAS, no representatives from the affected tax jurisdictions were present at this meeting to address the Agency regarding such proposed deviation from the UTEP; and

WHEREAS, the Agency has given due consideration to the Application and to the representations by the Company that the provision of Financial Assistance: (i) will induce the Company to develop the Project Facility in the Town of Volney, County of Oswego (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or 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; and (iii) the Project will serve the purposes of the Act by advancing job opportunities, the health, general prosperity and economic welfare of the people of the State and the County of Oswego and improve their standard of living.

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 health, 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 adopted in connection with this proposed Project (collectively, the “*Resolutions*”).

Section 3. 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 PILOT Schedule, as set forth on **Exhibit “A”** attached hereto, the PILOT Schedule is hereby approved subject to the terms and conditions of the Resolutions. The Chief Executive Officer and/or the (Vice) Chairperson of the Board are each hereby authorized to execute and deliver a PILOT Agreement and any related documents reflecting the PILOT Schedule in a form substantially similar to PILOT agreements used in similar transactions with the Agency which is acceptable to the Chief Executive Officer and/or the (Vice) Chairperson of the Board upon advice of counsel. Notwithstanding anything herein to the contrary, no Financial Assistance (other than temporary sales and use tax exemptions benefits) shall be granted to the Company until the Company has provided to the Agency written evidence that it has received all approvals required from the Town in order to commence the renovation and reconstruction of the Project Facility; provided, however, that the Company shall not utilize any sales and use tax exemption benefits to commence the renovation and reconstruction of the Project Facility in advance of the receipt of required Town approvals.

Section 4. No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein 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 herein 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 5. 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 6. The Chief Executive Officer and/or the (Vice) Chairperson of the Board are each 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 7. 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, including, but not limited to, a PILOT Agreement.

Section 8. 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	
Tricia Peter-Clark				X	
Marc Greco	X				
Tim Stahl	X				
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble	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 February 23, 2023, 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 Article 7 of the Public Officers Law (the “***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 Open Meetings Law, (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 February 23, 2023.

Austin Wheelock
Chief Executive Officer

(SEAL)

EXHIBIT “A”

PILOT SCHEDULE

Term: 20 Years

Annual payments: Fixed amount per year based on the following schedule:

<u>Years</u>	<u>Fixed Amount Per Year</u>
1-5	\$125,000
6-10	165,000
11-12	185,000
13-14	205,000
15-16	215,000
17-18	235,000
19-20	255,000

Distribution of annual PILOT Payments will be based on the pro-rata share of each of the taxing authorities for each respective year.

FINAL APPROVING RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on February 23, 2023, at 9:00 a.m. local time, 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: Marc Greco, H. Leonard Schick, Tim Stahl, Gary T. Toth, and Barry Trimble

ABSENT: Nick Canale, Jr. and Tricia Peter-Clark

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and Austin Wheelock

The following resolution was duly offered and seconded

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS BY THE AGENCY IN CONNECTION WITH A 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, 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, reconstruction, renovation, installation and equipping of one or more “projects” (as defined in the Act); and

WHEREAS TDJ Properties, LLC, a New York limited liability company (the “**Company**”), submitted an application to the Agency on or about October 31, 2022 (“**Application**”), a copy of which is on file at the office of the Agency, requesting the Agency consider undertaking a project (the “**Project**”) consisting of: (A) (i) the acquisition or continuation of a leasehold interest in all or a portion of approximately 67 acres of improved real property, being part of various parcels of certain real property located at 1850 County Route 57 in the Town of Volney, New York, Oswego County (the “**Land**”); (ii) the reconstruction and renovation of an existing building (the “**Existing Building**”) totaling approximately 786,600 square feet located on the Land (the Existing Building as reconstructed, the “**Facility**”) for the use as offices, manufacturing and warehousing space for businesses in the semi-conductor supply chain and other industries; and (iii) the acquisition of and installation in the Facility of various machinery, equipment, furnishings and other tangible personal property (the “**Equipment**”) (the Land, Facility and Equipment are hereinafter collectively referred to as the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property taxes, real estate transfer taxes, mortgage recording tax (except as limited by Section 874 of the Act) and State and local sales and use tax (collectively, the “**Financial Assistance**”); (C) the appointment of the Company and/or its designee as an agent of the Agency in connection with the acquisition, reconstruction, renovation and equipping of the Project Facility; and (D) the lease of the Land and the Facility by the Company to the Agency pursuant to a lease agreement, the acquisition of an interest in the Equipment pursuant to a bill of sale; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency conducted a public hearing with respect to the Project and the proposed Financial Assistance on January 23, 2023 pursuant to Section 859-a of the Act, notice of which was published on January 12, 2023 in The Post-Standard, a newspaper of general circulation in the Town of Volney and the County and given to the chief executive officers of the affected tax jurisdictions by letter dated January 10, 2023; 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 (“**UTEP**”) established pursuant to Section 874(4) of the Act; and

WHEREAS, by letters dated February 13, 2023 the Agency gave to the chief executive officers of the affected tax jurisdictions notice pursuant to Section 874 of the Act of this meeting, at which the Agency would consider the Company’s request for a PILOT schedule which deviates from the UTEP; and

WHEREAS, prior to the date hereof, the Agency responded to all communications and correspondence received from the affected taxing jurisdictions regarding the proposed deviation from the UTEP; and

WHEREAS, no representatives from the affected taxing jurisdictions were present at this meeting to address the Agency regarding such proposed deviation from the UTEP; and

WHEREAS, the Agency adopted a resolution on November 29, 2022 (the “**Initial Resolution**”) entitled:

RESOLUTION DETERMINING THAT THE ACQUISITION, RECONSTRUCTION, RENOVATION AND EQUIPPING OF A COMMERCIAL FACILITY AT THE REQUEST OF TDJ PROPERTIES, LLC 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; and

WHEREAS, the Agency adopted a resolution on November 29, 2022 (the “*Lead Agency Resolution*”) entitled:

RESOLUTION CLASSIFYING A CERTAIN PROJECT AS A TYPE I ACTION AND DECLARING THE INTENT OF THE COUNTY OF OSWEGO INDUSTRIAL DEVELOPMENT AGENCY TO BE LEAD AGENCY FOR PURPOSES OF A COORDINATED REVIEW PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT

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

WHEREAS, the Agency adopted a resolution on February 23, 2023 (the “*SEQRA Resolution*”) entitled:

RESOLUTION CLASSIFYING A CERTAIN PROJECT AS A TYPE 1 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; and

WHEREAS, the Agency adopted a resolution on February 23, 2023 (the “*Inducement Resolution*”) entitled:

RESOLUTION UNDERTAKING THE ACQUISITION, RECONSTRUCTION, RENOVATION, EQUIPPING AND COMPLETION OF A CERTAIN PROJECT, APPOINTING TDJ PROPERTIES, LLC (THE “COMPANY”) AS AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, RECONSTRUCTION, RENOVATION, EQUIPPING AND COMPLETION OF THE PROJECT; APPROVING CERTAIN FINANCIAL ASSISTANCE; 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, for purposes of exemption from State sales and use taxation as part of the Financial Assistance requested, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight; and

WHEREAS, the Agency has given due consideration to the Application and to representations by the Company that the provision of Financial Assistance: (i) will induce the Company to develop the Project Facility in the Town of Volney, County of Oswego; (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or 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; and (iii) the Project will serve the purposes of the Act by advancing job opportunities, the health, general prosperity and economic welfare of the people of the State and the County; (iv) the Project will serve the public purposes of the Act by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the State of New York; and

WHEREAS, the Agency adopted a resolution on February 23, 2023 (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 TDJ PROPERTIES,
LLC**

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 health, 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, Lead Agency, SEQRA, Inducement and PILOT Resolutions.

(A) The granting of the Financial Assistance will be an inducement to the Company to further develop the Project in the Town of Volney, County of Oswego; and will assist the Company in the reconstruction, renovation, installation and equipping of the Project Facility.

(B) The commitment of the Agency to provide the Financial Assistance to the Company will enable the Company to acquire, renovate, reconstruct and/or improve, install, equip and complete the Project Facility.

(C) The acquisition, renovation, reconstruction and/or improving, installation, equipping and completion of the Project and will promote employment opportunities, help prevent economic deterioration in the Town of Volney and the County of Oswego and advance the health, general prosperity and economic welfare of the people of the State.

(D) The acquisition or continuation of an interest in the Project Facility by the Agency and the designation of the Company as the Agency's agent for the acquisition, reconstruction, renovation, equipping and completion of the Project will be an inducement to the Company to acquire, reconstruct, renovate and/or improve, install, equip and complete the Project Facility in the Town of Volney, County of Oswego, and will serve the purposes of the Act by, among other things, preserving and/or creating permanent private sector jobs, promoting job opportunities, health, general prosperity and economic welfare of the inhabitants of the County of Oswego; and the granting of the Financial Assistance will assist in financing the costs of the acquisition, reconstruction, renovation and/or improving, installation, equipping and completion of the Project Facility.

(E) 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, the Project Agreement (as those terms are defined in the Inducement Resolution), this Resolution, the Inducement Resolution, the Lead Agency Resolution, the SEQRA Resolution and the PILOT Resolution (collectively, the "***Resolutions***") and satisfaction of the requirements set forth in Section 862(2)(c) of the Act, the Agency will: (A) acquire a controlling interest in the Project Facility; (B) lease the Land and Facility from the Company pursuant to a lease agreement between the Agency and the Company (the "***Company Lease***") and acquire an interest in the Equipment pursuant to one or more bills of sale from the Company (collectively, the "***Bill of Sale***"); sublease the Project Facility to the Company, pursuant to a sublease agreement 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 (the "***Agency Lease***" and together with the Company Lease, the Bill of Sale, the Agency Lease and the Project Agreement, the "***Lease Documents***") which shall be consistent with this Resolution and approved by the Chief Executive Officer and/or the Chairman

of the Board upon the advice of counsel to the Agency; (D) 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 Company's lender(s), in such form and substance as shall be consistent with this Resolution and approved by the Chief Executive Officer and/or the Chairman of the Board 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 any lease 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 and/or the Chairman of the Board upon the advice of counsel to the Agency (collectively, the "***Lender Documents***"); and (E) execute and deliver any other documents necessary to effectuate the intent of the Resolutions and the granting of the Financial Assistance as contemplated by and consistent with this Resolution upon the advice of counsel to the Agency. Notwithstanding anything herein to the contrary, no Financial Assistance (other than temporary sales and use tax exemptions benefits) shall be granted to the Company until the Company has provided to the Agency written evidence that it has received all approvals required from the Town in order to commence the renovation and reconstruction of the Project Facility; provided, however, that the Company shall not utilize any sales and use tax exemption benefits to commence the renovation and reconstruction of the Project Facility in advance of the receipt of required Town approvals.

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 Lease Documents, the Lender Documents and any other document and agreement 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 the Resolutions. 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 and/or the (Vice) Chairperson of the Board 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	
Tricia Peter-Clark				X	
Marc Greco	X				
Tim Stahl	X				
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble	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 February 23, 2023, 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 Article 7 of the Public Officers Law (the “**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 Open Meetings Law, (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 February 23, 2023.

Austin Wheelock
Chief Executive Officer

(SEAL)

RESOLUTION APPROVING MODIFICATION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on February 23, 2023 at 9:00 a.m. local time, 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: Marc Greco, H. Leonard Schick, Tim Stahl, Gary T. Toth, and Barry Trimble

ABSENT: Nick Canale, Jr. and Tricia Peter-Clark

ALSO PRESENT: Kevin C. Caraccioli, Kevin LaMontagne, and Austin Wheelock

The following resolution was duly offered and seconded:

RESOLUTION AUTHORIZING THE EXECUTION OF CERTAIN AMENDMENTS BY COUNTY OF OSWEGO INDUSTRIAL DEVELOPMENT AGENCY (THE “ISSUER”) TO (A) THE ISSUER’S MULTI-MODE VARIABLE RATE INDUSTRIAL DEVELOPMENT REVENUE BONDS (THE FULTON THERMAL CORP. PROJECT), SERIES 2010 ISSUED BY THE ISSUER ON SEPTEMBER 29, 2010 IN THE ORIGINAL PRINCIPAL AMOUNT OF \$10,000,000 AND (B) CERTAIN DOCUMENTS RELATED THERETO.

WHEREAS, the Issuer 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, 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 Issuer is authorized and empowered under the Act to acquire, construct, reconstruct and install “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, by resolution adopted by the members of the Issuer on August 23, 2010 (the “Bond Resolution”), the Issuer authorized the issuance of the Series 2010 Bonds (as defined herein); and

WHEREAS, on December 9, 2010, the Issuer issued its (1) Multi-Mode Variable Rate Industrial Development Revenue Bonds (The Fulton Thermal Corp. Project), Series 2010 in the original aggregate principal amount of \$10,000,000 (the “Series 2010 Bonds”) under and pursuant to a bond resolution adopted by the Issuer on August 23, 2010, and a trust indenture dated as of September 1, 2010 (the “Indenture”) by and between the Issuer and Manufacturers and Traders Trust Company, as trustee (the “Trustee”) for the holders of the Series 2010 Bonds in connection with a project (the “Project”) for Fulton Thermal Corp. (the “Company”) to be undertaken by the Issuer consisting of the following: (A) the acquisition of a leasehold interest in approximately 22 acres of land located at 972 Centerville Road in the Town of Richland, County of Oswego, New York (the “Land”), and the construction of and acquisition and installation of machinery, equipment and other personal property in an approximately 115,000 square foot addition to its existing manufacturing and industrial building located on the Land (the “Facility”) for use in the manufacture of packaged boilers and accessories and other uses directly related and ancillary thereto (the Land and the Facility hereinafter collectively referred to as the “Project Facility”); (B) the financing of all or a portion of the costs of the foregoing by the issuance of the Series 2010 Bonds; and (C) paying a portion of the costs incidental to the issuance of the Series 2010 Bonds, including issuance costs of the Series 2010 Bonds and any reserve funds necessary to secure the Series 2010 Bonds; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Issuer, pursuant to the Bond Resolution determined that (i) the Project constituted an “Unlisted Action” (as such term is defined under SEQRA), (ii) the Project will not have a “potential adverse environmental impact” warranting the preparation of an environmental impact statement, and (iii) as a consequence of the foregoing, issued a negative declaration (as such term is defined under SEQRA) relating to the Project; and

WHEREAS, the Series 2010 Bonds were purchased by Manufacturers and Traders Trust Company (the “Holder”), as administrative agent relating to the Series 2010 Bonds, according to the terms of a bond purchase dated as of September 1, 2010 (the “Bond Purchase Agreement”) by and among the Company, the Issuer and the Holder; and

WHEREAS, contemporaneously with the issuance of the Series 2010 Bonds, the Issuer, the Company, Manufacturers and Traders Trust Company (the “Trustee”) and the Holder entered into various documents related to the Series 2010 Bonds (hereinafter sometimes collectively referred to as the “Bond Documents”), including but not limited to the following: (A) the Indenture; (B) the Bond Purchase Agreement; (C) a pledge and assignment dated as of September 1, 2010 from the Issuer to the Trustee and the Holder (the “Pledge and Assignment”); (E) a general security agreement dated as of September 1, 2010 (the “Security Agreement”) from the Company, Fulton Group N.A., Inc., Fulton Management Services, Inc., Fulton Boiler Works, Inc., Fulton Heating Solutions, Inc., Synex Controls, Inc., Volcanic Heater, Inc. and the Issuer to

the Trustee; and (F) a mortgage and security agreement dated as of September 1, 2010 (the “Mortgage”) from the Company and the Issuer to the Trustee; and

WHEREAS, the Issuer received a request from the Company (the “Modification Request”) (A) indicating the intention of the Company to replace the current interest rate index used to calculate interest on the Series 2010 Bonds while bearing interest at the Bank Purchase Rate (as defined in the Indenture) from LIBOR (as defined in the Indenture) to the Secured Overnight Financing Rate (SOFR) as more specifically described in the Modification Request, and (B) requesting that the Issuer, the Trustee and the Holder modify the Series 2010 Bonds and the related Bond Documents necessary to implement the Modification Request (collectively, the “Modification Documents”); and

WHEREAS, the Issuer now desires to authorize the amendment of the Bond Documents and the Series 2010 Bonds (the “Transaction”); provided, that Barclay Damon LLP, bond counsel to the Issuer (“Bond Counsel”) issues an opinion substantially to the effect that the Transaction will not, in and of itself, adversely affect the tax-exempt status of interest paid and payable on the Series 2010 Bonds (the “Required Opinion”); and

WHEREAS, in connection therewith, the Issuer, the Company, the Trustee and the Holder desire to enter into (A) an omnibus amendment to indenture and related financing documents (the “Omnibus Amendment”) by and among the Issuer, the Company, the Trustee and the Holder and (B) certain other documents modifying the terms of the Bond Documents (the Omnibus Amendment and such other documents are hereinafter referred to as the “Modification Documents”); and

WHEREAS, pursuant to SEQRA, the Issuer must determine the potential environmental significance of the Transaction;

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

Section 1. Pursuant to SEQRA, the Issuer hereby finds and determines that:

(A) Pursuant to Section 617.5(c)(26) of the Regulations, the Transaction (including but not limited to the execution and delivery of the Modification Documents) is a “Type II action” (as said quoted term is defined in the Regulations).

(B) Accordingly, the Issuer hereby determines that no environmental impact statement or any other determination or procedure is required under SEQRA with respect to the Transaction.

Section 2. The Issuer hereby finds and determines that:

(A) By virtue of the Act, the Issuer has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act.

(B) It is desirable and in the public interest for the Issuer to enter into the Modification Documents.

Section 3. In consequence of the foregoing, the Issuer hereby determines to: (A) authorize the Transaction; (B) subject to approval of the form and substance of the Modification Documents by Bond Counsel and counsel to the Issuer, approve the form and substance of the Modification Documents; (C) subject to (i) the Company's certification that it is compliance with the terms and conditions contained in the Bond Documents (as defined in the Indenture), (ii) compliance with state and federal law applicable to the Transaction and (iii) the receipt of the Required Opinion, , authorize the execution and delivery of the Modification Documents.

Section 4. Subject to the satisfaction of the conditions described in Section 3 hereof, the Authorized Officer is hereby authorized, on behalf of the Issuer, to execute and deliver the Modification Documents and the other documents related thereto and, where appropriate, the (Assistant) Secretary of the Issuer is hereby authorized to affix the seal of the Issuer thereto and to attest the same, all in substantially the forms thereof approved by Bond Counsel and counsel to the Issuer, with such changes, variations, omissions and insertions as the Authorized Officer of the Issuer shall approve, the execution thereof by the Authorized Officer of the Issuer to constitute conclusive evidence of such approval.

Section 5. Subject to the execution and delivery of the other Modification Documents, the Issuer determines to execute and deliver the Series 2010 Bonds, provided that:

(A) The Series 2010 Bonds authorized to be issued, executed and delivered pursuant to this Section 5 shall (1) be issued, executed and delivered at such time as the Authorized Officer of the Issuer shall determine, and (2) bear interest at the rate or rates, be issued in such form, be subject to redemption prior to maturity and have such other terms and provisions and be issued in such manner and on such conditions as are set forth in the Series 2010 Bonds and the other Modification Documents or as are hereinafter approved by the Authorized Officer of the Issuer in accordance with Section 4 hereof, which terms are specifically incorporated herein by reference with the same force and effect as if fully set forth in this resolution.

(B) Neither the directors nor officers of the Issuer, nor any person executing the Series 2010 Bonds or any of the other Modification Documents on behalf of the Issuer, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution, issuance or delivery thereof. The Series 2010 Bonds and the interest thereon are not and shall never be a debt of the State of New York, the County of Oswego, New York or any political subdivision thereof (other than the Issuer), and neither the State of New York, the County of Oswego, New York nor any political subdivision thereof (other than the Issuer) shall be liable thereon.

(C) The Series 2010 Bonds, together with interest payable thereon, are and shall be special obligations of the Issuer payable solely from certain of the revenues and receipts derived from the operation, sale or other disposition of the Project Facility or from the enforcement of the security provided by the Bond Documents and the other security pledged to the payment thereof.

(D) Notwithstanding any other provision of this resolution, the Issuer covenants that it will make no use of the proceeds of the Series 2010 Bonds or of any other funds of the Issuer which, if said use had been reasonably expected on the date of issuance of the Series 2010 Bonds, would have caused the Series 2010 Bonds to be an “arbitrage bond” within the meaning of Section 148 of the Code.

Section 6. The officers, employees and agents of the Issuer are hereby authorized and directed for and in the name and on behalf of the Issuer to do all acts and things required or provided for by the provisions of the Modification Documents, and to execute and deliver all such additional certificates, instruments 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, desirable and proper to effect the purposes of this resolution and to cause compliance by the Issuer with all of the terms, covenants and provisions of the Modification Documents binding upon the Issuer.

Section 7. 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	
Tricia Peter-Clark				X	
Marc Greco	X				
Tim Stahl	X				
H. Leonard Schick	X				
Gary T. Toth	X				
Barry Trimble	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 “***Issuer***”) held on February 23, 2023, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Issuer 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 Issuer had due notice of such meeting, (ii) pursuant to Article 7 of the Public Officers Law (the “***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 Open Meetings Law, (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 Issuer on February 23, 2023.

Austin Wheelock
Chief Executive Officer

(SEAL)

