

## 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				

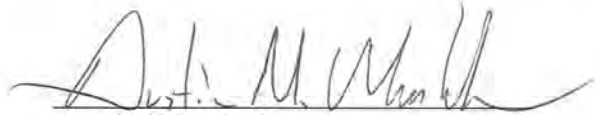
The resolution was thereupon declared duly adopted.

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)