

## 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				

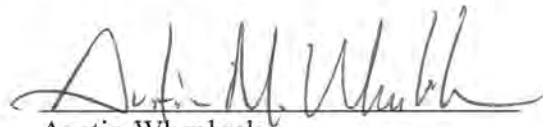
The resolution was thereupon declared duly adopted.

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.